

DEBATES
OF THE
House of Commons,

From the Year 1667 to the Year 1694.

COLLECTED BY THE
Hon^{ble} ANCHITELL GREY, Esq;

WHO WAS
Thirty Years Member for the Town of DERBY;

CHAIRMAN of Several COMMITTEES;

AND
Decyphered COLEMAN'S LETTERS for the Use
of the HOUSE.

IN TEN VOLUMES.

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1764-74, —.

Life of
Thomas Hollis,
of London.

DEBATES

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From the Year 1667 to the Year 1694.

Friday, November 12, 1675.

Debate on the regulating the Election of Members to serve in Parliament, occasioned by Mr *Welch's* complaint of Mr *Reeves's* undue Election for the Borough of *Eye*, in *Suffolk*.

SIR *Henry Ford.*] In the Long Parliament, the Court of Stannaries was taken away, because if the plaintiff brought a vexatious suit, and was cast, he paid no costs.

Mr *Garroway.*] There is a short way to remedy these excesses, without taking away civil hospitality, *viz.* "that the person to be chosen shall have an estate in the proper County."

Serjeant *Maynard.*] By law, every man that serves here, must have his wages from the County or Borough he serves for, but now, generally, there are none taken—This bribing men by drink is a lay Simony—*Electiões fiant libere.* What do men give hogs drink for? To be carried on the shoulders of drunken fellows? Thinks it a good limitation, "that none be capacitated to be chosen, but such as have estates, or reside, in the County." Exclude them that have no estates from being trusted in what they give; who, to serve a turn, will be made

free of the Borough, and, it may be, never live nor trade in the Borough hereafter.

Sir *Thomas Littleton*.] This case is from one that has a fair estate in the Borough, in right of his wife (*Welsh*) He agrees to the expedients of the expence before, or after the Election. He wonders 'tis not moved from the *Kentish* and *Essex* Gentlemen. The *Cornish* men have many Boroughs—In *Essex* there are but eight Parliament-men, and in other Counties twenty, and upwards—If you come to *Oliver's* establishment, 'tis more proper—Hopes you will not remedy such an inconvenience by so gross an injustice.

Sir *John Bramstone*.] Before you give directions to the Committee for a Bill to regulate Elections, you will, in the first place, not exclude so great a County as *Essex*, if you alter the law——But three Boroughs and two Knights in the County—Before you give a restraint, make us even with other Counties. In *Oliver's* time there were sixteen—Before you alter the law, would make the distribution more equal.

Sir *Robert Carr*.] There are but twelve for the County of *Lincoln*. Would have no man a Knight of the Shire, that has not an estate in the County he serves for; but for a Burgefs, if his estate be in another County, would have him serve for a Borough.

Mr *Boscawen*.] 'Tis looked on as a privilege of their County [*Cornwall*] to have so many to serve in Parliament, but strangers are chosen that look not after the County. It may be, *Yorkshire* has as many as *Devon* and *Cornwall*, and anciently the Boroughs petitioned to be discharged from sending Burgeffes, for the charge it put them to for wages; but the world is so altered now, that some forget for what place they serve.

Mr *Vaughan*.] A man is obliged, in justice and gratitude, to serve the interest of the place and county he serves for. 'Tis the same thing as if a man had no estate at all, if he have none in the County or Borough.

Sir *Edward Dering*.] If they have estates in any other County, as in law they may be chosen, so they may in
reason

reason also. Would leave both the expence and the qualification to the Committee.

Sir *Richard Temple*.] Anciently there was no Vote in a Borough, but by burgage tenure, Borough-houses—We come now to freemen, and salesmen, scotters and lotters, but such only had voice as were able to maintain the charge of their Burgeses. Would tie up Elections to such as have estates to answer their actions to the place they serve for. Would not have one chosen that has not an estate of 500 *l. per ann.* And restrain all charges, and expences, that Elections may be free.

Mr *Williams*.] By Statute of *H. VI.* the County is to chuse by Freeholders, and the Cities by Citizens and Burgeses—Electors, and elected also. There is another Statute, “that Elections shall be freely and indifferently made, notwithstanding letters, &c.” which he has felt to his cost—Citizens are sometimes only freemen, and a person that came lately to be a citizen, at large—Asserts the thing, and it will help Elections very much—With the officers that may determine who is, and who not to elect—Would damn all letters from great persons.

Mr *Swynfin*.] You are on a good subject, and it deserves consideration. You have had several things moved, almost impossible to come to effect. It was never before thought of to make rules for Boroughs, but to leave men to stand upon their ancient privileges. Some Boroughs, by prescription, have a settled right by law. In some there is no burgage tenure—Would therefore avoid these large considerations. If you make a general Vote, there will be as much doubt on the interpretation, and be as full of dispute when it comes to be applied, as now. If you go about it, 'tis as much as to say you'll have a Bill that shall never come to effect. But there is one thing—that exorbitant corruption, amounting to no less than bribery—And 'tis better to allow to give 1000 *l.* than to expend it so disorderly. It makes the very Parliament have reflections upon it;

therefore would have a Bill to restrain this giving or spending money before the Election be made.

Sir *Thomas Meres.*] As good make a coat for the moon, as alter the manner of Elections; we have one Burges fits here upon one point, and another upon another. Doubts that what we are about to do is impracticable. Those who wish not the Parliament well, impute these things as a scandal to us. Therefore something should be done against drinking and bribery, and would have the Committee directed in it.

[The following form of a Vote or Order of the House was then read, and referred to.

N. B. The Committee of Privileges, passed it, [with a few alterations] the day before the Session ended. Statute of 7 *H. IV.* was read, at the Committee, *viz.* "The Election of Members to serve in Parliament, shall be freely and indifferently made, notwithstanding any prayer or commandment to the contrary."

Resolved, That if any person, or persons, hereafter to be elected, in a place for to sit and serve in the House of Commons, for any County, City, Town, Port, or Borough, after the test, or issuing out the writ of Election, upon the calling or summoning of any Parliament hereafter, or after any such place becomes vacant hereafter, in the time of Parliament, shall by himself, or any other in his behalf, or, at his charge, at any time, before the day of his Election, give any person or persons, having voice in any such Elections, any meat or drink, exceeding in their true value five pounds in the whole, in any place or places, but in his own dwelling house or habitation, being the usual place of his abode for twelve months last past, or shall, before such Election be made and declared, make any other present, gift, or reward, or any promise, obligation, or engagement, to do the same, either to any such person or persons in particular, or to any such County, City, Town, Port, or Borough, in general, or to, or for, the use of them, or any of them, every such entertainment, present, gift, reward, promise, obligation, or engagement, being truly proved, is and shall be a sufficient ground, cause, and matter, to make every such Election void, as to the person so offending, and to render the person so elected incapable to sit in Parliament, by such Election, and hereof the Committee of Elections and Privileges is appointed to take especial notice and care, and to act and determine matters coming before them accordingly.

Saturday,

Saturday, November 13.

Sir John Mallet reports from the Committee the business of *Monf. Luzangy**.---[It was said] "an imperfect whisper but provokes any man to show you that ever he was in his company in his life."

Sir Thomas Lee.] Mr Coleman † was pressed,—and said several things at the Committee that are not reported.

Sir John Mallet proceeds.] At noon *St Germain* was seen in *St James's* park, by a *French* Gentleman, Secretary to that Ambassador, [*Monf. Blanchard*] and by a clerk in Mr Secretary *Coventry's* office. [*Monf. le Pin*] One Dr *Hero*, Canon of *Windfor*, said, "he saw him walk there at leisure, and speak with ladies"—Another time was proved by Mr Coleman, who being asked what himself was, said "he was a Gentleman that belonged to his Royal Highness, but has no constant salary. He does not know, but believes *St Germain* to be both a Priest and Jesuit, and no man doubts it."---Coleman appeared agitated in his defence, and acknowledged he had been with him in *St James's* park; and all this since the warrant from Secretary *Williamson* to attach *St Germain*. Mr Coleman gave in a paper to the Committee, in justification of *St Germain*. And said "he had showed it to some Members," naming ‡ Lord *Hawley* and myself ||. (Mr Grey)

Mr Mallet.] Said he saw strange faces about the town, and has found an odd pamphlet in the Speaker's chamber—Would clear this end of the town.

The Speaker.] 'Tis not for your honour to receive into the House every dirty paper swept into a corner. He knows not how defamatory such a thing may be upon any man.

Sir William Coventry.] After the Committee, you had satisfaction, he thinks, from *Williamson*, and the Proclamation also. And we have reason to acknowledge the King's care in apprehending *St Germain*, though there was no fruit of it—But he is cautious to move things

* It appears, by the Journal, that what is here reported was the examination of *Daniel Cordier*, a *French* gentleman, who had been examined before the King in Council, the Monday before. The substance of

it there is much the same with that above related.

† Secretary to the Duke of York, of whom more hereafter.

‡ Sir John Mallet named not us in this report. || The Compiler.

without precedent. We have once or twice recommended our Chaplains for preferment, and doubts not, but that, when time comes, you, Mr Speaker, will put us in mind of yours—Would recommend some of those that come over to our Church to the King's favour. Dr *Brevall* (he has been told) has preached at *Westminster-Abbey* in *English*. Would recommend him for one, with the other, Monf. *Luzançy*, for some dignity that the King may please to put upon them, which may much encourage these new comers.

Mr Secretary *Williamson*.] Dr *Brevall* he saw this morning in the list of those who are to have preferment, and his turn is not yet fallen; and this morning the King gave command to the Bishop of *Oxford* to recommend him to the next Prebend of *Westminster*, that should be vacant.

Mr *Garroway*.] Would have *Williamson* give thanks from the House to the King for what he had done, and that he would be pleased to go on in that good way he has begun.

Sir *Thomas Clarges*.] The King of *France* is watchful for nothing more than to encourage such as come over to his Church. Not one comes over but has 120 or 140 pistoles a year. Either a good pension, or a corrody on some abbey. Moves that this man, (*Luzançy*) may be recommended for preferment, and, in particular, also, the Speaker's Chaplain.

Mr Secretary *Williamson*.] Dr *Brevall* is already Prebendary of *Rocheſter*, and the King, in consideration of this one man, has given the *French Church* 60 *l. per ann.*

Mr *Waller*.] People that come not over into *England*, if abroad have had pension. *Diodati* had one, and *Moulin* another. Cardinal *Perron* was the son of a minister, They doing so well for converts in *France*, let us do so too, else we shall be thought not to mind our religion.

Sir *John Holman*, and Sir *Charles Wheeler*.] Moved for recommendation from the House to the King for *La Mott*, another *French Minister*.

Mr

Mr Secretary *Williamson*.] He is not in the same case with the others—He is a studious man, and is, at present, at *Oxford*. Will do him any kindness in his way, and least he should have discouragement, since he is named, would recommend him to the King also.

The thanks of the House were voted to the King for [his great care for promoting the Protestant Religion, in] preferring Dr *Brevall*.

Ordered, That Monf. *Luzancy*, and Monf. *La Mott*, be recommended to the King for preferment also.

The Speaker.] If you think his Chaplain [Mr *Barker*] worthy of your recommendation, to be also, &c.—*It was voted*.

Sir *William Coventry*.] If you thank the King for what he has already done to these Gentlemen, it will seem exclusive to farther preferment. Therefore would not send it in these terms.

Mr *Sacheverell*.] Is informed that this *St Germain* should walk publickly in the verge of *Whitehall*, since you took cognizance of him, and if you put not a mark of discouragement upon these things, your laws will never be executed; if he be not to be found when walking so publickly, the order was slightly executed—It seems as if there was a kindness to the party. This House is so discouraged, that he would have the carelessness of executing the King's commands represented.

Mr Secretary *Williamson*.] If *Sacheverell* meant him, he has done his duty, if such as execute the warrants, walk the streets. The Lord Chief Justice's warrant was out against Priests and Jesuits sometime since; and *St Germain* might have been taken by that warrant.

Sir *Thomas Lee*.] The fact is clear that the person walked abroad, but he believes not in *Serjeant's-Inn*, nor in *Chancery-lane*, at least an hour together. The King will take care to punish this neglect, he believes; but 'tis your duty to acquaint the King with it. He walked in *St James's* park that day the business was heard in the Council, and that day the warrant was

issued out—Surely he is sheltered somewhere. He hopes that the King will take care that his orders be better executed for the future.

Sir *Nicholas Carew*.] Whilst we sit here, he wonders at this. Moves that the Papists may be confined to five miles from their houses, that we may the better know where to find them.

Mr *Russel*.] 'Tis plain that this business has not been prosecuted as it ought to be. If such persons are so countenanced, what will they be when we are up?

Mr *Garroway*.] Has heard that Mons. *Ruvigny's* Secretary should say, "That if the warrant came out against *St Germain*, he, *St Germain*, should say, "I'll carry my head myself to the House of Commons." Whatever becomes of *St Germain*, have a care of the King's honour, after such words he should say of the King, and that the warrants should not be executed. For the King's honour, represent it to the King. 'Tis his dishonour when his commands are not executed by his Ministers.

Sir *Charles Harbord*.] The King has done extraordinarily, and the Secretary has done his duty; but *St Germain* not appearing, there is a fault somewhere, and if you represent it to the King, you do your part in it.

Sir *Robert Thomas*.] Moved that no man may be a Justice of the Peace, who has a Papist to his Wife.

Col. *Titus*.] How can a man command his wife in matters of Religion, when, it may be, he cannot command her in any thing else? Such as breed their children Papists, would have them out of Commission.

The motion went off.

Resolved, That an Address be presented to the King, representing to him the default of not apprehending Mons. *St Germain**.

Sir *John Reresby*.] Informed the House, that *Luzancy* told him, that two *French* Protestant Gentlemen were threat-

* The King's Proclamation, &c. but he escaped (as appears afterwards) and took refuge in *France*, for apprehending *St Germain*, bore date Nov. 10. And 200 *l.* reward where he became a joint solicitor was offered for apprehending him; with *Coleman* for the Catholic cause.

ened by a *French* Papist, "Be careful how you proceed against *St Germain*, for it shall not be long before you shall see *Hugonots* blood run in the streets of *London*." And he is ready to name who they are.

Col. *Birch*.] He loves not empty Addresſes. He obſerves that when we handle theſe things, we do it like hot balls. If you addreſs, would have you make but one, and the things in it punctually proved. Would therefore take theſe things altogether, and refer them to the Committee, to examine, and to conſider then what is fit to be done for the preſervation of the King and Kingdom.

[It was referred accordingly to the ſame Committee.]

Sir *Eliab Harvey*.] Acquaints the Houſe with Sir *John Fagg*'s being ſummoned to the Lords Houſe [on *Saturday* next, and that he] deſires the direction of this Houſe what he ſhall do. He is not willing to go to the Tower again for diſobeying your order*.

Mr *Garroway*.] Would proceed with ſuch care and tenderneſs in this buſineſs, as not to loſe the fruits of this Seſſion, though withall he would preſerve the right of the Houſe.

Sir *Thomas Lee*.] Is for adjourning the Debate till *Monday*, but would read the order firſt, to know what is before you for that day.

[The Debate was accordingly adjourned to *Monday*.]

Monday, November 15.

Mr *Mallet* proffered to bring in a Bill to repeal the Act of King *James*, entitled "Felony to marry a ſecond huſband, or wife, the former being living †."

* Some thought that the King had conſented to the renewal of this Appeal-diſpute, as diſliking the warm proceedings of both Houſes, of which opinion was *Marvell*. Others believed that the Lords of the country intereſt had perſuaded the Doctör thereto, with a view thereby to kindle ſuch a flame between the two Houſes, as ſhould oblige the King either to prorogue or diſſolve them; the ſaid Lords ap-

prehending that if this Parliament ſhould ſit much longer, the majority might be gained over by places and money, ſo as to become quite obſequious to the court; and this *Savile* Lord *Halifax*, then in the intereſt of Lord *Shaſteſbury*, his uncle, told Sir *John Reresby* was his opinion. *Ralph*.

† There is no mention of this in the Journal.

Mr

Mr *Waller*.] There are some things *that ought not to be named*, even amongst the Gentiles. But is sorry to read that our Saviour was son of a virgin who had but one husband, and that such a thing as this should be reported to be discoursed of within our doors. We cannot do such a thing as this. Let the Gentleman that would bring it in, tell him, whether his dove-house is not better stored, where one cock has but one hen, than his yard, where one cock has many hens. (*Mallet, in opening the Bill, pretending it was for peopling the nation, and preventing the promiscuous use of women.*) 'Tis such an abominable Bill, that it is not fit to be retained.

Sir *Lionel Jenkins*.] Saying, it was against the Canons and Decretals of the Church,

Mr *Mallet*.] Said, he knew no Canons nor Decretals it was against, but those of *Rome*, with which *Jenkins* was better acquainted than himself.

Sir *Thomas Lee*.] The best Question to this purpose is to read the order of the day.

Ordered, That the call of the House be on *Thursday* next.

Sir *Thomas Meres*.] Would have the order positive for *Thursday*, and the first business that day, that Gentlemen may not think your orders are nugatory, and so go out of town.

[*Debate on Sir John Fagg's business resumed.*]

Sir *Trevor Williams*.] Would have the Votes of the last Session, in Sir *John Fagg's* case, read.

Sir *Thomas Meres*.] Would not have the House express fear, nor yet be the aggressors in this business either. The Lords have begun the quarrel—You may have the orders read out of time, disorderly, and not in the method they were made. 'Twill be the labour of an hour to reduce the differences to a fair scheme, and would have them done, and present them to morrow at ten of the clock, where you may see a false step, if any was made, and may mend it. Would go throughly with it, that we may justify it, and therefore moves for such an order.

Mr

Mr *Sacheverell*.] In this affair would walk with all caution imaginable, both for the liberty of this House, and that the Lords may lay nothing at our doors. If you forbid *Fagg's* appearing, you draw the same inconvenience upon him as before, his concern is so great.—He appeared, and incurred your displeasure, and you sent him you know whither. Therefore moves that you would take the same care now in *Fagg's* case, as you did last Session in Mr *Onslow's*, that he do not appear.

Sir *Thomas Clarges*.] 'Tis not a summons that is sent to *Fagg* from the Lords, but a notification—It requires not his attendance, nor appearance; he is left to his discretion. The last distemper increased from one provocation to another, and the Session, thereupon, became fruitless. Therefore he seconds the motion for a Committee to state what we did in *Fagg's* case the last Session.

Sir *Thomas Lee*.] If *Clarges* will be one to undertake that work, he would then have it done. It will take near a quire of paper to write, and at last to have the Lords Journal perused—He knows not what to lose rather than the Lords should gain this Prerogative over us; and would be the last man that should make this Session fruitless—The Lords take proceedings as they left them the last time—No new summons, and you will go no farther than needs must, you are told—So then let the Lords judge the cause, and the thing is done by contract. Perhaps they will give judgment in favour of your Member, that he have no cause to complain—Would have Conference, not on the main matter, but to let them see the inconvenience of the last Session—When you have put yourselves first into a posture of defence, then proceed—Place all on this single point, “of stopping the weighty affairs of the Kingdom,” and then do what you please.

Col. *Titus*.] If, on the one side, you are too apt to comply, you will endanger your privileges, and if, on the other, too strict or severe, you will shake the foundation of the Government. If there be nothing left but the King and the House of Commons, there will be an eternal
contest

contest between the King and us, about prerogative, on the one hand, and anarchy on the other; and if in deferring to give your opinion till to morrow, you give up the cause, then would proceed to day—Moves to keep the business entire for to morrow, that it may be well considered.

Mr *Garroway*.] He knows nothing before you, but to assert your privilege. Will you give that up? Though he would proceed with all moderation. If that be, without doubt, our privilege, “not to be summoned, &c.” then we do madly not to assert it. They claim this judicature, but of very late date, 18 *James*—Without any prejudice to the cause, you ought to declare that your Member have his privilege not to be summoned to the Lords Bar.

Sir *William Coventry*.] There is no place now for summons of *Fagg* to the Lords House; that is done already, and your Member has given in his answer; so that is done too. He seconds the review of our books, as to what we have done last Session, and could have wished we had been a little stronger in our proceedings. Would, in the review, avoid heat as much as can be. As some ways of our proceedings may be unnecessary, so some may be dangerous, to make the breach wider. Therefore would not make that the whole scheme of the business. But your Member in justice must have some direction; for want of that, *Fagg* mistook; for want of a rule. You can do no less for him than as you directed *Onslow*, viz. “not to proceed without your leave.” This is not only a matter of right, but there are prudential considerations to be had, when directions are given, whether more explicitly or implied by directions—Then will be a time to think of the most cautious and deliberate way for the safety of your privilege, and yet to make it appear that the occasion was given from the Lords, and not from us. He hears that *Fagg* is confident of his cause, but though the Lords should judge it for him, yet it is a breach of privilege. Moves therefore that
your

your Member may be enjoined not to proceed without your leave.

Mr *Sawyer*.] You had many Votes last Session grounded upon the Lords Votes, which brought them on. The mischief we saw by it was Prorogation; and if it should so fall out again, this, and all other Parliaments, would be rendered useless thereby. Should we break, he believes we should never see a Parliament again lay it to heart. If we ask, where has been this jurisdiction? They will be too hard for us. They have it in writs of error—The surest way must be by denying the jurisdiction; and if we deny, and they assert, Appeals, how unprofitable will all our Conferences be! If there should be a positive assertion on both sides, it excludes all Conferences—And no way to be remedied unless by Bill. He hopes never to live longer than the use of Parliaments. He thinks it will become you to represent the interruption this will give to affairs, and that some way might be thought of. Moves for a Committee from this House, with the Lords, to consider what way to settle this matter. He believes 'tis feasible, and both may consider the ancient way of Parliament, and defer the cause till the business be settled. If we go by way of Conference, he believes we shall never attain our ends.

Mr *Williams*.] It seems, here is an Appeal against one of your Members in the House of Peers; upon this, the Lords grant an order, and *Fagg* has notice to appear to answer it. We are only in case of a Member of your House, a Commoner, against your Member. It becomes us not to look into proceedings of the last Session—Privilege destroys not the Lords judgment—Therefore 'tis fit that *Fagg* either makes his defence, or else enjoin him not to proceed. If you put off the Debate till to morrow, people will say you have not voted it a breach of privilege, but have put it off. Therefore would not stay a moment to vote it a breach of privilege. 'Tis said "that for a Conference you cannot have
a pro-

a proposition," and what better proposition than that this is a breach of privilege?

Mr *Vaughan*.] Your Vote stands as well as the Lords in a Prorogation. He is against carrying such a Vote up. Would lay only before the Lords the state of the Kingdom, which will not only interrupt the Session, but the being of all Parliaments.

Mr *Williams*.] Never mentioned "carrying the Vote up." But when it appears a breach, you declare it *quoad hoc*, only as to this particular person. 'Tis far from him to mean carrying up this Vote.

Sir *Thomas Lee*.] *Vaughan* is mistaken—"Tis one thing to make a resolution, and another to tell the Lords of it. Put the case, we desire a Conference, and the Lords tell you they will proceed—Takes it for no more than to encourage the Lords to a Conference. If you make not matter of privilege the ground, the Lords have no reason to put the cause off. 'Tis in order only to proceed.

Sir *Thomas Meres*.] As to *Fagg's* case you must give some answer, and would not be mistaken—To flat the spirit of this House was never his intention. What answer to give to *Fagg*, you have ready, *viz.* "That he shall not proceed." You treat not with the Lords now in their capacity of legislature, but in this judicial—"Tis a sign that you are mature in what you did last Session—That you are wiser—Repentance is nothing else. Therefore vote either directions to your Member, or the other Vote.

Mr *Cheney*.] If you vote this a breach of privilege, 'tis as much as to say the Lords have broken your privilege, all this while, in the judgments they have made. See the reasons you have already made, and then proceed.

Sir *Thomas Clarges*.] 'Tis a certain rule that no Member can be impleaded or diverted from his attendance here, and you have already declared it. You are told by *Sawyer*, "That precedents, &c." Perhaps every term your Members are impleaded, but upon notification to the House, 'tis never suffered. At a Conference de-
clare

clare not in any judicature. (Though the Lords say this) says *Sawyer*, "The Lords hear any Appeal amongst themselves." 'Tis not impossible that every Member in our House may be impleaded, and so the whole Parliament falls—The Lords still sit in their places, though a Lord be concerned in an Appeal. If you think not fit to have a Conference, have a Question, "That no Member of this House ought to be impleaded in any court, during privilege of Parliament."

Mr *Powle*.] Thinks we are so careful in what we do, not out of compliment to lose any of our right, but is afraid this is made use of to the contrary. Possibly the Bills depending are so good, that this matter is kept in the fingers to prevent them, and in hopes these Bills may be so altered and qualified as not to be worth having—We live in an age of so much design. Therefore would not proceed so carefully in this, as to be thought fearful. The order of summons takes notice of *Fagg's* being a Member of the House of Commons, and yet summons him. If he were *Fagg* only, another case, but *Fagg* is a Member. This House formerly would not let their Members go to the Lords Bar to give evidence, or plead, for fear of privilege. The Long Robe have done much in this by pleading at that Bar without leave—Proposes some general order, "That no Member, as Counsel or Evidence, have leave to go to the Lords Bar." The thing has been so well discourfied the last Session, that you are ripe for the Question proposed. First, vote "that 'tis a breach of privilege;" secondly, lay an injunction upon your Member "not to proceed," and, if he miscarry, hopes you will stand by your Member; and is then for viewing your former proceedings by a Committee, but would do this first.

Resolved, That it is the opinion of this House, that Sir *John Fagg* do not farther appear to make defence against an Appeal brought against him at the Lords Bar, without leave of the House.

[*Resolved*, That the prosecuting this Appeal by *Thomas Shirley*, Esq; &c. is a breach of the privilege of this House.]

Tuesday,

Tuesday, November 16.

Debate on Sir *Edmund Jennings*, a Member of the House, being made High Sheriff of the County of *York*.

Sir *Scroope Howe* moved the House in it.

Sir *Nicholas Carew*.] If a Sheriff of a County plead privilege, he may obstruct the justice of that whole County, and no man can have remedy against him. Would have you vote, that it is a breach of privilege to be made a Sheriff, &c. thereby withdrawing his attendance from his service here.

Sir *Charles Wheeler*.] If there be a voluntary acceptance of the office, what breach of privilege is it? You have never exercised your authority against absent Members. A hundred men of the House are away, and why you should fall upon one Member, and not all the rest that are absent, knows no reason.

Mr *Waller*.] 'Tis something to want half our Knights of the Shire. About forty years ago there was made Sheriff a great father of the law, Sir *Edward Coke*, because he should not help us here. One was made Sheriff*, and sat here, and was fined in the Star-Chamber for going out of his County—They cannot sit here because they cannot come out of their County. They may make the Speaker Sheriff.

Sir *Robert Carr*.] He thinks the King has not broken your privilege, though possibly 'tis construed so without doors. Sheriffs have sat in Parliament. If you make an Address to the King for prevention of it for the future, he gives his consent.

Mr *Sacheverell*.] The constitution of Sheriff, and how made so—The law stands expressly, that the Sheriff is to be nominated, at such a time, in the Exchequer. In the next place, all actions brought against a Sheriff are personal, for the money he receives, and his executors are not liable to make account. A Sheriff shall receive all

* Mr *Walter Long*, fined (5 *Charles*) Burges for *Bath*, and Sheriff for *Wilt.*

moneys upon executions, &c. and the Parliament sits, he pleads his Privilege, and cannot be brought to account. Would therefore address the King to supersede this writ, &c. and vote this a breach of Privilege.

Mr *Wild.*] There are three names sent to the King from the Exchequer, and he sets aside, and chuses, whom he pleases. Put the case that there should be a new Parliament; a Sheriff in one County may be chosen in another. But it seems, when it serves one turn, it is one thing, and then another—Because this Parliament has lasted fifteen years, shall it continue fifteen more? This Parliament is made such a precedent, that we are like to have no more so long again.

Sir *William Coventry.*] Speaks out of no prejudice to this Gentleman that is appointed Sheriff for *Yorkshire*. Hears it said, “that precedents, if there have been any, not taken notice of, do not fortify the right;” but, if at any time, would now make an end of them. Would now address only to claim our right, and no more. ’Tis said, “the Gentleman is willing to accept the office,” and must we therefore give away our Privilege? *Fagg’s* case, he thought good in the Lords House, and therefore he appeared there, but you sent him to the Tower for breach of your Privilege. ’Tis said often here, that we cannot give away the Privilege of any man; the reason given, “about executions, &c.” convinces him. The King enters not into a nice disquisition of their being Parliament men—If one be made, fifty may be made, and so fifty settled in the Country, and he need not tell you how fifty Votes would have carried things as they are not now carried. This of pricking Members Sheriffs, and the letters sent to gentlemen, may tend all to the same end—So it concerns the Parliament, that you leave not the gap open, to root up all your Privileges. Whether the Parliament be longer or shorter, there will be so many absent, Sheriffs—And when the Parliament set to work about any thing, ’tis quickly done. From these considerations, moves that you will prevent this for the future, not barely by a petition, but your

right annexed to it. If you address the King only by petition, it may possibly not be granted, and so your right be precluded for ever.

Sir *Thomas Lee*.] He agrees with Sir *John Hanmer*, that 'tis below the honour of the House to fall on one man. The sending *Fagg* to the Tower was not falling on one man. The Privilege of the whole House was concerned in it. To argue from the custom of pricking Sheriffs, which is but a respect to the King — He pretends not to be knowing in the law, but has heard that a pocket Sheriff is traversable, and he believes the law will be found so. If one may be dispensed with to be out of the County, possibly another man may not. Would therefore desire a *supersedeas* of this writ—This once stopped, it will appear for the future in this, as in any other case, and put the Question.

Mr *Sawyer*.] 'Tis strange, at this time of the day, to declare this a breach of Privilege; it has been practised in all times. The ancient choice of Sheriffs was at the Coroner's court, but 'tis now settled by Statute, and the Exchequer returns three, and the King pricks one, —Now to say the King has broken your Privileges, after so many precedents! —In Sir *Edward Coke's* case, it was never thought a breach of Privilege—The House ordered his attendance, and his attendance is upon the Kingdom here, which supercedes the service of the County, and is an excuse in law for not residing in the County, till you declared it otherwise. — One was fined* in the Star-Chamber, for sitting here when Sheriff—There is no other true ground of exception, but that you cannot have his service here. The Sheriff's office, if of great trust, is not a Justice's of the Peace also, and a Deputy-Lieutenant, an office of trust, in the same degree? Must all your Members be turned off that are in such offices? Though they are bound to attend their offices, yet they are bound to attend the Kingdom in the first place. If you go on the beneficial ground of the office, then no Member shall have

* Mr *Walter Long*. See Note, p. 16.

one. 'Tis said, "the Sheriff may defraud by pleading Privilege in matters of execution," and "that his executors are not liable to an action." 'Tis true, in an escape, but the law is plain, that, where the Sheriff levies money, his executors are liable to an action. Now, there having been usage to the contrary, and that the thing will run into all other offices, as well as Sheriff, moves not to make an Address to the King about it.

Mr *Vaughan*.] *Sawyer* argues very well, but his reasons must be well fortified to argue against Privilege of Parliament. But by being Sheriff, a man must be in two places at one time, and you fine him here for his absence. 'Tis said, by *Sawyer*, "that his executors are liable to account," but the Sheriff may be in this House, and the creditor's wife and family ruined. 'Tis said, "this precedent will go hard upon one gentleman." It is so, but would have it otherwise for the future.

Mr *Williams*.] The office of a Sheriff differs now from what it was anciently. It has been said, "if you declare this a breach of Privilege, you declare the King has broken your Privilege"—We know that ordinarily the Sheriffs are presented in the Exchequer, by the Judges, to the Lord Treasurer and the Lord Keeper, and then the King pricks them, and perhaps he knows him not to be a Member of Parliament. The great ministers are the men that must inform him of it, and they must answer it especially. A breach is out of the nature of Privilege, and why are we exempted from *Westminster-Hall*, but because Members are not to be disturbed, but attend the weighty affairs of the nation? Men cannot be imagined to be in the County, and attend the weighty affairs of this House—Says one, "the consent of parties is in the case, and *consensus tollit errorem*." But 'tis the House that is concerned, and must consent to it, and he should be questioned for pleading at the Lords Bar without leave. 'Tis said, "that many Members have been Sheriffs," and therefore 'tis high time to stop it. First settle the thing on breach of Privilege.

Sir *Charles Harbord.*] 'Tis no breach of Privilege at all, the thing has been usually done, and always so done. He thinks it true that no Member can be absent without leave of the House. Suppose the Sheriff should put the King's money into his own purse, the consequence is, the King indicts the party. The King makes a man Sheriff, and he is then chosen a Parliament-man, and he cannot attend the business of the County to pay the money according to his writs—And persons escape—He thinks it a wise and a good counsel, that for the time to come this be not drawn into precedent, and to move the King so. In 9 and 10 *Edw. II.* chap. 9. There are directions for the choice of Sheriffs, and in the 7th chap. we read not a word of the King's pricking Sheriffs.

Mr *Streete.*] 'Tis the resolution of the Judges, that this law mentioned does not deprive the King of his sovereign power, but only eases him of the trouble and labour. The day after *All-souls*, the King may prick Sheriffs without them. Queen *Elizabeth*, King *James*, and the late King, have pricked Sheriffs. It was not the opinion of the House in the case of Sir *Edward Coke*. Look on your own books, and you will find, in that case, the opinion of the House "that a Sheriff of one County may be elected to serve for another, and the Sheriff of his County may be returned for a Borough in the same County," and some now sit so. 'Twas never thought but a Sheriff may be here, and it disables him not to attend his service. There are four of your Members that have served, this Parliament, for that County we now debate.

Sir *Thomas Meres.*] *Coke's* case was nothing to this now in debate, and to clear that repeats the Question—"Care of our Privileges." The making a Member of this House Sheriff is a breach of the Privilege of this House. This case comes not up to the other. This case is, the House sitting, to make a Member Sheriff of a County; and all that is said against it is, "That we have some sit here that have been Sheriffs of that

that County." But if the thing has been once or twice done, and therefore must be a precedent, then, by the same reason, the Lords may try your Members, because it has been once or twice done. 'Tis said, "That 'tis as fit Members should be Sheriffs, as Justices of the Peace." If that be the case, we may all be made Sheriffs. If it be as equal to make us Sheriffs as Justices, perhaps forty or fifty may be made Sheriffs hereafter—He lets it go to help the Question, that we may be made as well Sheriffs as Justices of the Peace—Did ever any man yet make a voluntary answer to a suit in *Westminster-Hall*, and it came to your knowledge, that ever you passed it over? And so in this case now. Though the case be far different between *Westminster-Hall* and *Fagg's* case; for the Judges say, "you may go on if you will," and take no farther notice. But the Lords say, "No, though you tell us you are a Member, yet you shall appear." Shows you this only, how little a step the Lords may take advantage of—And now 'tis spoken of here, if not complained of, it may be a precedent.

Mr *Powle*.] The arguments of the Gentleman of the Long Robe (*Sawyer*) go clearly to make every man here Sheriff. "*Ita quod nec tu, &c.*" "Neither yourself, nor any other Sheriff shall be elected, or returned to serve, &c." Examine the reason of this law. 'Tis from the great trust which requires necessary residence in the County. Anciently the Sheriff of a County was equal to a Lord Lieutenant. He had absolute command over the military power, the *posse comitatus*; and has the executive part of the law. Anciently Justices, and Deputy-Lieutenants, were strictly to be present upon the place; but there are others in the County now, that may perform that office. The Sheriff cannot have any to perform his. So that the Counties are either deprived of an officer, or the House of a Member.—3 *Cha.* Mr *Long** was Sheriff of a County before the Parliament,

* See *Rushworth's Collection*, p. 635.

and he was chosen for *Bath*, and attended in Parliament, and was fined 500*l.* in the Star-Chamber for non residence in the County. The precedents are mistaken. Lord *Coke* comes nothing to this case. 1 *Charles*. The Duke of *Buckingham* was questioned and impeached, and that Parliament was abruptly broken up at *Oxford*. 2 *Charles*. The same Duke, to prevent *Coke's* and other gentlemen's being against him in this House, made them Sheriffs, and the Parliament took notice of it in a remonstrance. Those very gentlemen sat not, and *Coke* in particular did not, for the very reason of being fined. He has a respect for this gentleman, (*Jennings*) but if you do nothing in this, you give up the right of the thing for ever. The Customs have been granted to the Kings of *England* for life, these three ages, and never to be a precedent; yet they have been for most of the Kings lives but the last. 'Tis said "this is putting breach of Privilege upon the King", which is mistaken. The Statute directs the chief officers of state to nominate three for Sheriffs. He will not define Prerogative, how the King may prick Sheriffs without it. If the Sheriff be not responsible, *respondeat superior*, and 'tis construed the County is superior to the Sheriff. The King therefore chuses now, that the County be not responsible for the Sheriff. The King takes it for granted that his officers will not nominate to him persons not fit to serve in that office; therefore moves as before.

Sir *John Duncombe*.] He thinks this hard upon this gentleman (*Jennings*) who only pursues those who have been before him. He was one of the three brought to the King. The thing has been done three or four times in this House, and not controverted, and 'twas thought this gentleman might be Sheriff as well as those before him—Unfortunate at this time—As to the inconvenience—The practice is, a man out of his County, and now chosen Sheriff that lives not in his County, to support hospitality, because he is brought hither to live here in the town, and have no charges on him. You were told it was once an office of profit—Though
the

the image be left, the substance is gone. In all times there were dispensations granted to Sheriffs to live out of their County—And now the Sheriffs have deputies and attorneys. You have declared there is no Privilege against the King, and no man to be protected for his debt. But if the Sheriff levy money on the subject, how shall he get his money if he be a Parliament-man? This is an inconvenience he knows not how to get off, but by beseeching the King that this may be so no more.

Sir Winston Churchill.] He agrees to the inconvenience of it, but thinks it not a breach of Privilege. Put the case that another man's cattle make a trespass upon him, and eat up his grass, but if the gaps or gates be left open, 'tis his fault. This is no trespass, but our fault. Before you vote it a breach of Privilege, would be satisfied whether the King taking somewhat that is not his right—To prick a Sheriff—If that be not the point, it has respect to your Member only. In his case, he should think it hard and reflective that he only should be the man excepted. Not a *Yorkshire* gentleman has yet offered any thing against it—Too light a thing on half an hour's Debate to jump into a breach of Privilege—The Lords will cast it upon us. Suppose you should be told and convinced hereafter, that 'tis no breach of Privilege—Would not have this fastened as an article on the Lord Treasurer, when so many have been wiped off, brought in by a side-wind—That the Treasurer broke the Privilege of this House, *ex post facto*. (*He broke off abruptly, and was laughed at by many.*)

Mr Leveson Gower.] This is not only an inconvenience, but a breach of Privilege—For a person, before the Parliament sat, has deserved it, and now he is a Member not suffered to be Sheriff. Four Members have served Sheriffs for this County, therefore would have let the Question be only general, and favour this Gentleman so far now, as not to put the Question upon him.

Col. Birch.] Is afraid to speak to you in this matter, lest, if any gentleman should say here we fly in the

King's face, he may tell the King so. He can never believe that the same men were called up in three Parliaments in *Edw. III's* time, (In *H. IV's* time lawyers were excluded.) But 'tis said, Why a breach of Privilege at this time, and in this case, and never so before? He is apt to think that things have been done here that will never be done again. Such fims, he believes, any man would be laughed at, that should move for them again. He sees but few * in the House now that have had that mark of favour to be Sheriffs of *Yorkshire*. Why now do you say that the Lords shall take a Member from his attendance to their Bar? But you say a Member for a year may be Sheriffs of *Yorkshire*—And say nothing to that. The argument will go against you, if you take this resolution. A learned gentleman (*Sawyer*) told you, "go to the bottom," but he was not at the bottom. He agrees that the King may make an Ambassador, and he tells you Sheriffs have been made, and of this House afterwards—But he supposes the House will not much care for their company—You would have heard of it before. Three or four may be sent into foreign service, but scores may be made Sheriffs, and things might have gone another way. Would do the thing easily—It cannot reflect upon the King, and is far from thinking on a Minister of State. But in the best Prince's time would provide for the worst of things, and whether the zeal of us here will continue to send for them up, he knows not; therefore he is for the Question.

Mr *Sacheverell*.] Sir *Richard Pemberton's* case, who refused to go into *Ireland*, and though it be in the King's dominions, was not fined. He denies that the King has any power to prick Sheriffs. Sir *Richard Tempest's* case, Sheriff of *Lincoln*, he was not fined for refusing to be Sheriff, because he was not nominated within the time of the Statute, but he held it by appointment, and the King gave him all the fines and amercements, and other perquisites, to hold the place. If

* Sir *Solomon Sawale*, was one.

you let this go without *supersedeas*, 'tis giving up the cause.

Sir *George Downing*.] This is a breach of Privilege, and the party concerned makes no complaint. 'Tis taken up by other gentlemen, and not the party concerned. You are going to vote, That making a Member Sheriff is a breach of Privilege, and you never saw any thing to the contrary, but that he might, &c. There is no Question yet stated. Some say, "The King has broken the Privilege," without any farther ceremony. Shall not a Committee first examine it? In far less things than this we go by steps. Let records be searched first. He will else never vote it. He will have his tongue out of his head before he will do it.

Sir *William Coventry*.] That which raises him, is, That he would not have that thought the Question, that is not the Question; "That the King has broken our Privileges." The whole Debate was, that the King never had, nor did break our privilege.

Mr *Hale*.] The business depending has passed silently over formerly; shall we say, therefore, that Privilege is not broken in the case of *Fagg*?

Sir *Henry Capel*.] You have been told what the case was in the late Duke of *Buckingham's* time. Should it happen ever again, that letters should be sent for Members, and they have them not, and Sheriffs kept from hence—Who can then sit here?—If so, let us go on with the Bill of money, and other things, and lay aside the difference between the Lords and us—He rather would not have this Gentleman made a precedent, but he thinks himself beholden to him for being the occasion of this Debate. If the Question be of Privilege, he must give his Vote for it.

Mr *Bennet*.] As to trespasss spoken of, 'tis time now to mend the hedge, and shut up the gate. He hopes *Jennings* will not suffer so much by it, there will be found somebody to officiate it, and he to have the best share of the profits—And that we are so fond of him, we will not part with him.

Sir

Sir *Edward Dering*.] It concerns not him to answer whether *Jennings* serve here, or in his County. Let the gentlemen concerned look to that, before he takes the office upon him. The danger of making one Sheriff that is a Member, and the consequence of making many, is but a remote reason, and weighs not with him—We have had three or four Members Sheriffs of that County, and no complaint made of it. The Deputy-Sheriffs do give security for performance of the office—In all cases, would have the King treated with all reverence, and in this most tenderly—Would, therefore, only address the King, “That, for the future, no Member of the House be made Sheriff.”

Sir *Thomas Littleton*.] By this means we strike off half our Privileges; for writs of Privilege a man can only have when the suit is begun. It is moved to temper the business—Is sorry for the Member concerned, for whom he has a respect; but, if you proceed no farther than an Address to the King, “That it shall be so no more for the future,” you give up the cause. For he has observed, that when a thing has been voted to be no precedent, for the future, it proves often to be a precedent to do the same thing again.

Sir *Henry Goodrick*.] Hears it said, “that few, or none, of *Jennings*’s countrymen are concerned in this matter.” Though he has been silent in the thing out of modesty, is concerned as a reflection on his person, and reputation, which he would have so saved, as that the House may attain their end—We all conclude for proceeding, by way of Address to the King, and would have it in as home terms as you can invent. Pricking of Members Sheriffs, you find an encroachment on Privilege—Moves therefore that the Address to the King be “not to prick any Member that serves for County, City, or Borough.”

The Speaker.] Upon some disorder said, If any man have a Privilege to be disorderly, let me know it.

Sir *Philip Warwick*.] We may have many Privileges started up at this rate, that we know not of. If the Gentleman

man was the case only, he would say, it is as fit for him as another to be Sheriff. 'Tis one thing to vote the King has done you a wrong, and another to address, &c. As to the convenience, he agrees — But that this is not the first Question, but the second.

The Speaker, *said jeeringly to Sir Richard Temple.*] To your place, Sir. I shall be thought partial if I let you stand there—*Then he proposed the Question, viz.—*“That 'tis a breach of Privilege for any Member to be made Sheriff, &c. during continuance of Parliament.”

Sir *Lionel Jenkins.*] Doing a thing illegal—Knows not how to be so, till declared and proved so.

Mr *Streete.*] *Offering these words to the Question,* “without his will and consent,” *'twas concluded regular to offer words of addition to a Question. But when the previous Question is put, and passed, no man can say any thing to the main question.*

Mr *Sacheverell.*] Moves that the Lord Keeper be sent to, to supersede *Jennings's* commission of Sheriff.

[The main Question was then put, and passed, 157 to 101.]

And a Committee was appointed to consider of a proper way of superseding the Commission, and discharging the Sheriff from his office.

Wednesday, November 17.

[Debate on Sir *John Fagg's* case resumed.]

Sir *John Holland.*] This unfortunate difference between the Lords and us must render this, and all other Parliaments, useless to the Kingdom, and shake the foundations of the government, if not made up. Therefore, in a Conference, would represent to the Lords these good Bills upon our hands, of our Religion, Liberties, and Properties, and enumerate them, and that we will speed them, and desire the Lords to do it, and, for the present, to lay aside this their Judicature, and we will our Privileges, and, when that's done, that by Conference we may convince one another amicably.

Mr *Waller.*] We have a great many good things in prospect, and we have hopes of our Religion, Properties,

ties, and defence of the Nation, and all these hopeful fruits to be shaken down by the storm betwixt us and the Lords!—He will show you experience by the glass of experience. In his time fell out the breach of three or four Parliaments, and the late King was persuaded to set forth a Declaration, which was shrewdly penned. So that the King could make no use of Parliament for nine years, and he was so long without one, and might have been still, but for the business of *Scotland*, which caused many fears. There wanted not counsellors then to advise an arbitrary government; there were monopolies, and imprisonments, and such judgments upon it—None feared a Parliament—They judged us here for speaking. If the Government be so spoiled, that the King cannot govern—The Crown is the most ancient portion of the Government, and the Lords are immediately from the Crown. The Commons sit here by writ; at this rate here may be none but the Crown, and the people left to govern. Therefore he seconds the motion for a Conference, to lay aside this difference, till our good Bills be ended.

Mr *Boscarwen*.] The matter is of great moment. He would not give the first cause, nor provoke the Lords to do an unjust thing. He thinks that if this concerned our Member only, 'tis not so great as 'tis made to be—Consider, first, whether you have reason to retract what you have done. That which will do you right, will be to keep your Privileges—And would lay to heart, whether really you have a right to what you pretend to, and then not to postpone it by a kind of submission to the Lords.

Sir *Jonathan Trelawney*.] You move for Conference, which is a kind of retracting.

Sir *Thomas Littleton*.] The argument of this intended Conference is from the danger of no Parliaments; but that's a dangerous argument to use here, and much more to use it to the Lords—Wishes it were not insisted upon—Time is a great mollifyer of things, and twenty things may happen to predispose mens minds. He that discovers

discovers fear in all matters of consequence, has usually the worst of the business.

Mr Secretary *Coventry*.] Hears a Conference proposed to postpone this difference betwixt the Lords and us, and there has, without doubt, as *Littleton* says, been a spirit of moderation amongst the Lords as well as here. What we are told, "of the example of the late King's time," by *Waller*, is of great consequence. If the ill be not cured, whatever you postpone—If arbitrary Government be the consequence, you cannot help it; and whether 'tis not better to have a Conference with the Lords upon the main point, than postponing it? Consider, when that's done, whether you will not return to your former heat. He never heard that a cessation of treaty promoted peace; but when you make a truce, and no treaty, the war comes on afterwards more hardly upon you. He moves therefore for a Conference, to discover the Lords temper, but, upon the first advance of Conference, to make the step moved for by *Holland* is too dangerous, he fears, to attain your end.

Col. *Birch*.] You are moved by one to assert your rights, and, by another, you are moved to postpone the matter in difference. Though, it is said, the consequences of this breach are such as are not fit to be named here, yet this business will be judged by all the people of *England*. There is great notice taken where the quarrel stands, and he would sweep it from our doors. He would not lose your right, but would do all things in the best of time. Would first, therefore, show the King our obedience and duty to his desires, to stretch it as far as we can; and next, would let the Kingdom see—Suppose Prorogation, something must be resolved on—Therefore some Gentlemen may think it some condescension, but he thinks it not so. For when you lay it before the Lords, we do our duty to the King and Kingdom, to give dispatch to the public business. Therefore that some time may be appointed for the great business, he desires a Conference.

Mr

Mr *Sacheverell*.] He is as much for these Bills depending as any man, yet, if you take not great care, and move as *Birch* says, it will look as if you never intend to meet again. If the matter be such as never to be reconciled, he appeals, if it be not be the best way to try the difference first, and then go on with the Bills. If you go on singly upon this point of Privilege, he can never agree to it. If you ask time for all these Bills to pass, 'tis reasonable for the Lords to say, That you tie up their hands; therefore, first resolve to assert your right, "That no Appeal can be brought to the Lords from any court of Equity."

Sir *Thomas Lee*.] Is of opinion, that the way to get your right, is to assert it. He inclines not to go into the merits immediately by Conference. The Lords may be as fond of their Bills, as you of yours; but, if you postpone the difference, without asserting your right, you give them no reason to postpone, and no reason to put off the cause. They have asserted their right upon the same bottom they left it; therefore it concerns you to follow your opinion too, of the last Session. He finds this right asserted by the Lords, not only upon your Member, but the whole people. He thinks, that, in this case, the Lords wrong the King. The Lords sit for themselves, and act for themselves. This House acts for others, and here may be various alterations of men. Therefore he is not for coolness in asserting your right, but for the necessary preservation of the Kingdom. That these ships may be built, and religion settled—Possibly, the Lords may incline to wave this dispute for a time, and neither side to give up the point.

Mr *Sawyer*.] Here have been several motions, but cannot almost agree to any of them. He is against postponing, or adjourning—Never to strike at the root of the business, and such remedies are worse than the disease. The last Session you took time to consider the Lords jurisdiction, and found they had none, and so you passed the Vote. All are agreed, 'tis a breach of Privilege

vilege to summon a Member, and so you have declared it—There is something that must be done, and that immediately, and by way of Conference, but what proposition to make, is the Question.—Not barely touching *Fagg*, for the Lords will laugh at it—But this House taking notice 'tis a breach of Privilege—If this was a new cause, would say no more; but the case is altered; for we say, here has been Prorogation, and 'twas necessary to take off the present difference—These points of jurisdiction the Lords will never depart from. In King *James's* time, there was a difference between the two Houses, and agreed by protestation, and 'twas entered, “That the proceedings in that cause were no prejudice to either House.” But, in this cause, 'tis impossible to make any compromise, by any protestation or saving. After all, we must end, “that 'tis fit an Appeal be somewhere, that one single person in the Chancery may not have the disposing of inheritances.” When we do it in a legislative way, we are all pleased. Now, consider how this may be done—Offers his opinion, that this matter may be proceeded upon by a Committee of both Houses, to settle the legislative power in this judicature, and then the Commons having asserted their rights, that they be inclined to the settlement of the legislative way, and proceed no farther. Thus you accomplish all your ends, and open a way of quiet to future Parliaments—For there was never such a step in any age; and this is his advice.

Mr Vaughan.] He has formerly sufficiently expressed himself in this business. 'Tis in vain your Address to your Prince, when the Lords latitude of jurisdiction must interpret your laws—You have before you now Bills to establish Religion, and to stop the inundation of Popery, ready to overwhelm us. We have Bills to indear the King to his people, and to recommend yourselves to them. Is sorry the people should have no fruit of this Session, but discourse of our difference—Before you now subject the matter of your Message—He thinks we may fight the Lords at their own weapons

weapons. The last Session, the Lords sent you a Message of a Conference they desired, "about the safety of King and Kingdom, &c." and much of that stuff—What he disliked in that he does detest here, your honour being his object—But—"Message of concern to the Kingdom, and safety of the People"—Till you assert your right, good reason to tell the Lords you have Bills—If the Lords can deny this, you justify yourselves to the people, and that the Lords are fonder of power, than the public good.

Sir *Thomas Meres*.] Here have been several motions—That motion, in order to a Committee of Lords and Commons, is so far agreed, as that the Lords will let us have our hats on. He has sat so with them. Which way soever you go, gentlemen, desires you to renew your Vote—Go which way you will, he would have you act for the Commons of *England*. (*He reads the Vote* "of no Appeals, &c.") But, at present, to defend the thing of Privilege. 'Tis discretion, in this matter, to have the Commons of *England* on our side. The Lords told us, "'twas an unexampled usurpation, &c."—Is there any reasoning in this? 'Tis all authoritative from the Lords. Upon the whole, would have this previous Vote, "that no Appeals do lie from Courts of Equity, &c." For this main reason, to have the Commons of *England* go along with us.

Sir *Charles Harbord*.] He takes this of the Lords to be a new Judicature, and it has not the badge of prescription on it. Next, 'tis no failure of justice if we admit it not generally on our Member. *Loftus* and *Strafford*, the great cause at the Council table. 'Twas then determined, "that the King, in case of an Appeal of injustice, might issue a Commission of Appeal, and they judge it"—And that's final in Ecclesiastical Courts, and, if so in Chancery, no failure of justice. Would not go to war without your armour on. Would have this Question first, "to assert your right," and then go on with Conference. Possibly, then, an expedient may be found

found out, either of a Committee of both Houses, or some other way.

Mr *Garroway*.] First pass your Vote, "That the Lords have no Appeals, &c." Else, as has been said very well, 'tis a begging Privilege which avers the Judicature—Suppose, after all applications to the Lords, they will not agree with us—What then? If they give judgment against your Member, there must be execution, and then what are you the better? If you assert the common right in the thing, they will never execute judgment.

Sir *Charles Harbord*.] On his recollection, the Lords have had, anciently, writs of errors, which do not judge the merits of the cause, but only defect of proceedings. These Appeals of equity subvert the whole course of the law.

Serjeant *Seys*.] 20 *Edw.* III. fol. 3.—Writ of Error in Parliament, on a judgment in the King's Bench. The record was brought up by Sir *William Thorpe*, Chief-Justice of the King's Bench, and thereupon the King assigns several Counts, and Barons, and with them the Judges, and, at that time, *Thorpe* supplied the place of Speaker. But how they came first to take this *qua Barones*, he knows not; and, at this day, though the Lords have incroached, they do assign certain Judges with the Committee. What they have formerly got upon law, they would now get upon conscience.

Sir *Edward Dering*.] If we go upon Privilege, we have arguments irrefragable to maintain it; and, if we do not prevail, we have reason on our sides; if we do, we may have fruit of the good Bills before us.

Sir *Nicholas Carew*.] The Lords have told us, "they will not confer," and have made an Order in it; but he would not give the Lords so great an occasion for prerogation. The Lords cannot force a Commoner thither—But he must petition, and when they know that easy way of Appeal to the King, they will follow the more easy way.

Sir *John Duncombe.*] He has sat still to inform himself. Now, he thinks the Question is altered from what he thought it at first, viz. "for Conference," that the thing might be calmly debated. 'Tis not for this or that Bill, but for the Government he speaks. There is a distemper, a chagrin, in the world, and, by this heat, we may be in such a condition as never to be able to recall it again. He hears of a disposition in the Lords to an accomodation. He would have you do so too. Would move slowly in it.

Mr *Swynfin.*] Unless what you would maintain, and what you would yield, were stated, 'tis in vain to think of a Conference. The difference between the two Houses is not as between man and man. Before you agree for a Conference, set your own resolutions, what your Managers shall maintain there. Would know how gentlemen came to differ from themselves since the last Session. Would know your sense how far you will maintain that right before Conference; else no man dares undertake to go to Conference. Set down first, "that this is a breach of Privilege, and that *Fagg* do not appear to the Lords summons, and that no Appeal can be brought to the Lords, &c." If you go less in this than you have done before, or alter your minds, he should be doubtful to go to Conference. The reasons offered against this doubt, "If you add this, the Lords will deny you any Conference, and so the breach will be made wider"—Would consider whether we are not as likely that this succeeds at a Conference, as if you asserted both—You will as well be denied Conference to your Privilege as to the Judicature. You have been expressly denied Conference in *Fagg's* case, because it would mention Judicature, and now we are as likely to be denied, and so weaken yourselves in the other—Laying aside the one will weaken you in the other.

Sir *William Coventry.*] 'Tis not possible for your Members to manage the Conference without your instructions. What was proposed first, was not at all to confer upon the merits of the cause—He was surprized,

zed, at the beginning of the Debate, to find the King's advice in his speech so much forgotten, when he presumed it might have been best remembered, and now you are advised to go on hastily to the merits of the matter—We are of the same mind still, and no Debate to the contrary, and most seem to believe the Lords ill founded in the business of Appeals in general, and summoning *Fagg*, in particular; but, in the manner of proceeding, there is great reason to bethink ourselves of other methods. Shall we go on in the same steps, when we have seen the danger? And there is no tergiversation in the case—Only the fruit of the good Bills—And the provocation is given and not taken. It has been objected, “we are not to decline the interest of the Commons that sent us hither.” If you confer upon Privilege only, you acknowledge the Lords jurisdiction. Would not take more care of ourselves than of those who sent us hither—’Tis necessary that the plaister be as big as the sore, but would have time to shape it—That still we may have a reserve, not to exclude our Privileges, nor give up the matter of Appeals in general—Would not part with one weapon, no, not to a pin—Then the point is, what Message you will send for this Conference. If you put it only on Privilege, you disarm yourselves. If, on the Lords universal Jurisdiction, you may exclude Conference—It may be avoided by not mentioning Privilege at all. He has not vanity enough to propose a question, but only his scope drives at, to let the Lords know, “that you understand that there is a time appointed for hearing the Appeal against *Fagg*,” and not mention him a Member of the House. We have many things to object against it, but because many good Bills are depending, and we are loth to give them interruption, we desire the Lords to set that hearing back. Thus, he hopes, the rocks we are afraid of may be avoided.

Mr Secretary *Coventry*.] He has been as much for appeasing this difference with the Lords, as any man, and has never advised any heat—The Lords have begun it,

and have summoned your Member. When a difference has been between two persons, and a box on the ear given — The Lords have begun this difference, therefore 'tis not for your honour to postpone it. He that has received the injury amongst inferior bodies, 'tis not honourable for him to put that off in the reference, and he questions much, whether it will stand with your honour, to desire a postponing this matter.

Sir Thomas Littleton.] The worst that can come he is far from despairing of, ever having more Parliaments. Another House of Commons may come of another mind. By asking this Conference, we have a double prejudice; by postponing, we have received the aggression from the Lords, and forbearing our own rights, which will be of hard construction without doors. It is yielded, on all hands, that the Lords are quick-scented, and will deny us Conference—He would know whether any Member will assert what you do now forbear to do. Would therefore do as you did in the last Session, on this occasion; assert this right of yours by a Vote.

Mr Garroway.] What's the subject-matter of our Debate? Rather to yield the point of Privilege, than that of Judicature, to judge us, and execute that judgment when we are gone home; else it may be played upon you, that you assert Privilege, but you deny not Judicature. Thinks it safe no other way; therefore, would have the Question, "that the Lords have no jurisdiction in matter of Appeals, &c."

Sir Thomas Meres.] Two nations having fallen out, one says, "'Tis my turn," and another, "'Tis my turn." We have all said that 'tis our right—And not to dare to put it down into our books!—If we are in the least afraid, the Lords will run us down. He is, therefore, for voting it now, that we may not be put to it to say "Good my Lords, grant us a Conference." When we go on, in a Parliamentary way, he doubts not of a good effect. He is not afraid of the cloud spoken of by *Duncombe*; he supposes this cause of *Shirley* is

is like a mastiff-dog, held by the collar, to be let loose at us, and they will slip *Shirley* at us, as they did the last Session, when we voted, "No new Bills to be brought in, &c." If things go to their liking, they will hold their dog; if not, halloo. If you show pusillanimity, then that of the Commons Appeals, that is gone. Some say, "Ask this Conference, on the state of the Nation, something like what the Lords did about the four Lawyers." We thought that not fair, and should we (with such a preface) come out with the single Privilege of *Fagg*? But, in that case, as long as *Fagg* has us at his back, we are safe, for whilst the Lords sit, we sit. But suppose there should be another Parliament, and he a Commoner, and no Member, then the Lords will be even with him (having no Privilege.) Moves therefore for the last Vote, and if you will spend your time, do it upon what is for the good of the Commons. Therefore is for putting that Question now.

Sir Henry Capel.] This Debate is perfectly to exercise our prudence and wisdom; we need not learn it from the *Bear Garden*. If you will remind the Lords of the King's speech, and show how far we have gone according to it, to put by this for the present, you have his affirmative to it.

Mr Sacheverell.] Agrees to it, if any thing might follow for the good of the House. When you were prorogued, let no man say this was the occasion. How came you by four Prorogations before this business was on foot?—The parting with this seems to him to be a parting with the whole Commons right. If you ask a Conference, either upon Judicature, or Privilege, the Lords will deny it—He presses not the going up with the Vote, but, unless you assert it, it falls to the ground. If gentlemen are afraid to own it, the Lords have it perpetually in their power.

Mr Powle.] Because this is argued by metaphors, he shall do so too. Upon a difference, one demands full interest and charges; if you go back at the begin-

ning, you give advantage. The beginning of this quarrel came not from you, 'twas studiously avoided. Now the Lords send you a challenge. He that has right to an hundred acres of land, and yet asserts but twenty, surely weakens his pretences to the eighty—And a train of gunpowder to blow both parties up whilst they are treating—If there be any such stratagems as the Lords to keep this to controul you on future occasions, you are still free for a free Conference; you have not yet voted “adhere.” Would go therefore to the Question proposed, that so we may stand our ground, and show no fearfulness.

Sir John Duncombe.] By this asking Conference you may retain your Privilege, and the people admire your tenderness in the good effect of this Session.

Mr Vaughan.] Should you pass over this Question, 'tis a discountenance of your claim, and should the Question go in the negative, 'tis a quitting your claim. Therefore he is for the Question.

Sir William Coventry.] 'Tis said, “that the prorogation, the last Session, was from something under ground,” but most apparently, it was from the difference betwixt the Lords and us. But would have the Conference now, to try whether our Bills be the true cause of the prorogation. If a man should be tied to be in a room, where gunpowder is, surely he would be careful to set his House in order; especially, if he apprehended a train laid to it. Would go on to finish these Bills, whilst the House is full, before it be thinned by the length of this Conference. And, to follow the metaphor of “the dog,” would make no scruple, if his neighbour's dog was unruly, to pray his neighbour to tie him up, that these pretty Bills, our children, may pass unmolested.

Sir Thomas Lee.] Is fond of “the children,” and is for tying up “the dog,” but the Question is, whether this Conference is not a kind of a slur to our pretences? If the previous Question be put, and a negative upon it, the main Question can never be brought on again—
That

That what is done by Votes, the value and effect of them, is gone in a prorogation, is the universal opinion—'Tis a changing your mind as to so much as that Question imports. Suppose the Lords tell you, "because 'tis a Question of Privilege, we will wave it;" and another day, one tells you, the Lords have done it—Must you then complain?—But would put it as far from you as you can—And is for that Question, because he would not have the thing flurred.

Mr Secretary *Coventry*.] This Question will preclude all the moderate applications you have debated. At the Conference would let the Lords know how quiet you have kept all things in your station, to let the public business go on.

Lord *Cavendish*.] Was for this way of proceeding the last Session, but is not for it now. Would have the previous Question put—He is desirous that the good Bills depending should pass.

[The previous Question was then put, and it passed in the negative 158 to 102.]

Mr *Garraway*, (*privately*).] By this Vote you may get your Privilege for a few of us, and lose the Judicature upon the whole Commons of *England*; besides the endangering never raising the spirit of the House in it again, and hazard the Bills too.

[The Question for adjourning was carried 110 to 108.]

Thursday, November 18.

A Message from the Lords. The Messengers, by mistake, thus delivered it: "Mr Speaker, the House of *Commons* have sent you a Bill for prohibiting foreign manufactures, and desire the concurrence of this House."

Col. *Birch*.] Let us take the Message so as 'tis delivered. The Lords make little enough of us already. Would understand the Message a little better.

Mr *Maurice* delivered a petition from the Stationers, in custody of the Serjeant of the House, for breach of privilege, in seizing almanacks * in Col. *Robert Philips's* house.

'Twas moved they should be discharged.

* In the Journal they are only called "goods."

The Speaker.] Will you give up all your Privileges? Will you discharge them, without calling them in?

Sir *Thomas Meres*.] The matter is not upon your Member, nor his servant, but the goods. Were it a clear title, as this is litigious and doubtful, and the people did it not maliciously, nor wilfully, would use them more mercifully; they are men of condition, and house keepers.

The Speaker.] If you give it up for this reason, he knows not how you can ever keep up your Privileges. Every one pretends ignorance. Nothing is so fundamental, as, if a breach of Privilege be committed, to enquire whether ignorantly. But you always discharge them at the Bar, upon their knees.

Sir *Thomas Meres*.] When a thing is found at the Committee of Privileges ignorantly done, it has been an inducement to your mercy. These men have suffered already, by lying in the Serjeant's hands some days.

Mr *Garroway*.] Would have it referred to the Committee of Privileges to examine whether this was done ignorantly, and to report it.

Mr *Sacheverell*.] Another person, and your Member, are at suit about these goods, in *Westminster-Hall*—Would have *Philips* inform you whether it be so, or no.

Mr *Vaughan*.] The House being possessed of the breach of Privilege, you ought to discharge them at the Bar.

Sir *Nicholas Carew*.] He never knew before, that your Member *Philips* was an Almanack-maker. Upon *Philips's* saying the goods were his.

Col. *Philips*.] He is no more an Almanack-maker, nor weather-wise, than *Carew*.

Mr *Boscarwen*.] Would know whether this was done in *Philips's* actual dwelling house? If it be a warehouse in another man's house, 'tis no breach of Privilege at all.

Sir *Adam Brown*.] In Mr *Barrel's* case, about seizing Mr *George's* chamber in the Temple, he did it ignorantly, and yet you brought him upon his knees.

The

The Speaker.] The whole Corporation of *Canterbury* were brought upon their knees for displacing the Recorder, Serjeant *Hardres*, a Member of the House*.

Sir *Thomas Lee*.] If you discharge them, you must do it upon their knees. What shall they be called in for else? You commit the fault, and mistake yourselves, and they pay the fees—When once the House has passed judgment, shall you not tell them of it? The prisoner is to come to the Bar, and be admonished to do no more so, and be discharged, paying his fees.

Mr *Sawyer*.] What have these men deserved that they should have favour? By colour of Letters Patents, that are void, they break open your Member's House. He knows not upon what ground you can discharge them, without calling them in.

The Stationers were brought to the Bar on their knees, and

The Speaker said, "You have committed a breach of Privilege in your insolent behaviour towards a Member of this honourable House. The offence deserves greater punishment than you have met with, but, upon your submission, the House discharges you, and you are discharged, paying your fees."

Sir *John Birkenhead*.] Moves, that the Messengers from the Lords may be called in, to mend their Message that they have mistaken.

Sir *Nicholas Carew*.] They have done us no prejudice, unless if they would make us the House of Lords, as they have made the Lords the House of Commons. *It went off.*

Sir *John Mallet*.] Complains, that the order to the Lord Chief-Justice, to attach *St Germain*, of the 8th of this month, came not to his hand till the 16th.

Sir *Nicholas Carew*.] The Clerk keeps the order eight or ten days in his hand—The Chief Justice has cleared himself. For our own sake, and the Kingdom's, would put a severe punishment on the Clerk.

Col. *Birch*.] Would not punish the Clerk till you find the thing done. Therefore would have the thing examined at the Committee.

* See Vol. III. p. 58.

Sir Thomas Meres.] Some days after, the Clerk expected the order should be taken from him by some of the Members. He told him "'twas his duty to look after it and dispatch it."

Ordered, That it be referred to the Committee to examine it.

Sir Richard Temple.] The House should have given directions, in the Warrant, either for the Serjeant, or some particular Member, to have carried it to the Chief Justice. The Clerk is not *ex officio* to do it.

Mr Sawyer moved for a Committee to consider of the matter of Appeals from Courts of Equity, to the Lords, &c.

Mr Garroway.] Would know what *Sawyer* means by "moderation, to let it sleep to day, and be in a flame on Monday,"—adding these words, "I love to be plain," as if he intended reflection. Would have him explain his meaning.

Mr Sawyer.] Every man that understands connection of words, will plainly apprehend him. He means, that when the Lords have heard the cause, we shall be in a flame.

Col. Birch.] Plainness and clearness in all things end best. He takes it to be all one, to enter into this Debate to morrow at ten of the clock, and the same thing as to say we will not do it all—This stone will roll upon us one time or other—He desires the Speaker to tell us, if, after the previous Question, the House ever entertained any other Debate till that was lodged—Would know, in reason, whether the business of the Lords, or the Kingdom's business [should be preferred.] 'Tis visible we cannot do it by *Saturday*, and that the people should see the two powers by which they are governed have such a difference!—A Question laid aside by a previous Question, cannot be brought about again.

The Speaker.] The Question was not laid aside—In the main Question, therefore, they put in the word "now."

Sir

Sir *Thomas Lee*.] Agrees with *Birch*—He intended no otherwise than he says. He has not known the like Question put again, when laid once aside by a previous Question. But the word “now”, it seems, excludes it not.

Mr *Sawyer*.] It may be resumed, but not now, till other Debates are over.

Sir *Thomas Littleton*.] A double motion there was for a Conference, one upon the single cause of *Fagg*, and the other upon Appeals in general.

Sir *Thomas Meres*.] To the word “now.” Whenever two Questions are started, the former is to be put first. This about a Conference was first, of a Committee of Lords and Commons—But no man ever knew a Conference, when no matter was stated to ground it upon. He hopes we may be over these matters to morrow morning. Shortness of time is urged—’Tis true in their method, but in Parliamentary method not.

Sir *William Coventry*.] Thinks Parliamentary method not so easily found out; it would else have appeared yesterday, if any. He thinks the word “now,” does not totally exclude—But not the next Question to be put (“abhorrent.”) The consideration of your Member weighs much with him—The last Session you sent to the Lords “to have a care of your Privilege;” this Session you say nothing of it. The Lords will say, “the Commons knew it the last time, and took it to heart, and sent to us about it; it seems now, they take no notice of it.” If *Fagg* have leave to appear at the Lords Bar, there are presumptions that the cause will go for him, but not any appearance, and ’tis hard that your Member should be involved in the Lords judgment, *ex parte*. He did the last night detain you some time—’Tis the right of every Member to be heard. He would only then have had one single candle—He is so willing to acquiesce in the judgment of the House, though in no particular man’s, that he sat down then as if shot—Would have the Question put for adjournment.

Mr

Mr *Vaughan*.] One said "he would fit to have time to understand one another"—That's combination. If *Fagg* stands the utmost contempt, the Lords will give judgment, and not before; so you have time enough.

Mr Secretary *Coventry*.] Your measures must alter, as the Lords proceed there. 'Tis said, "We may adjourn to talk in *Westminster-Hall*, and confer there." He never heard that the House was adjourned thither. We are all here now, and would consult here, and no where else.

Serjeant *Seys*.] *Fagg*'s answer is before the Lords, and what he says without proof, will be taken for granted on the other side.

Sir *Thomas Clarges*.] Gentlemen may confer together in *Westminster-Hall*, or where they please. The matter is of weight, and we have done our duty like prudent men; let us leave the event to God Almighty.

Upon the Question, the House divided about adjournment, and it passed in the negative [141 to 81.]

Mr *Garroway*.] Moves that the House would declare whether the Vote of the last Session, "that no person should prosecute an Appeal, &c." be still an order in force, or not. If you have altered the mind you was in the last Session, would know it.

Sir *Thomas Littleton*.] We made an Order last Session, that we thought sufficient then, and now would know whether you will have any publication of it. Sir *John Churchill*, you may remember, said, "He had not offended your revealed will." Would have that Vote therefore revealed and published in the usual manner.

Sir *Edmund Bowyer*.] That moved will be of great moment and use in the progress of this business; of great satisfaction both within doors and without—Would declare whether there is any obligation upon it, or not.

Sir *Henry Goodrick*.] Approves not of giving that discredit to our Vote, as to think publishing it of more authority than our books. That business was done so publickly, the last time, that all people cannot but

but remember it. The difference has been so fully debated and handled, that generally through the Nation notice has been taken of it. It has been said, "that generally the Privilege of the House has been insisted upon more than the good of the Nation"—Would proceed only to assert the Order of your books—And, as Lord Coke says, be *suaviter in modo*, and *fortiter in re*.

Sir Richard Temple.] 'Tis a dangerous Question to put this again. 'Twas a standing order—'Tis but what was your Privilege, before you declared it in the Vote of last Session.

Sir Thomas Littleton.] If you entertain the Debate, and the former Order springs out of it—To have recourse to a foreign business! Wonders at it.

-Sir Robert Carr.] Would first have a Conference with the Lords, and then renew the Votes of last Session, if no good effect come, yet for the last memory of it.

Mr Sacheverell.] Is one of those for a Conference, and will go as far as possible towards an accommodation. But he wonders gentlemen are against the thing now debated—'Twas the very reason against the Question last night—All desired it; all desired but to declare this, that you have been moved—He hoped gentlemen would have a fair accommodation upon such grounds as they admit of themselves.

Sir John Duncombe.] Thinks we have done enough the last Session. We imprisoned the lawyers, and voted "that none should appear at the Lords Bar, &c." The reasons why we go to the Lords, is, that the Parliament may not be broken—We are for healing, and look not so much after our own Privileges. The first and second Question are all one thing. But previous Questions may be to them both.

Mr Secretary Williamson.] 'Tis said "if the thing be so, declare it now," but he answers, because 'tis so, there is no need of declaring it so. Nothing is safe in this matter, but what is necessary—"Order" is an equivocal word. Standing Privileges are still in force.

The last Order created not what was before on foot. Therefore to declare it needs not.

Sir John Hammer.] Is not for giving away our liberty by a Conference with the Lords. If we are giving our Privileges away, let men say it—If you will say you have no manner of right—Let's say 'tis gone, or not gone.

Earl of Ogle.] Our right remains strong without declaring it.

Sir Charles Harbord.] Thinks it enough for ourselves, but not for our fellow subjects. Would declare about the Counsel, &c. if they appear. A Vote is nothing, but a Declaration is; which you should do presently.

Col. Birch.] Whether this way of publication, or Conference, be the way to attain your end? If we are real for Conference, before this time, you might have known whether the Lords would grant us Conference or no; and then you might have gone about this. Therefore not to destroy the Conference, lay aside this Question of publication. If the matter of Conference be denied, he'll go with the highest.

Mr Secretary Coventry.] The Question is not concerning your Order—If a Commoner cannot plead, 'tis a breach of your Order. Was any Order made about the forbidding breach of the House for Almanacks? But the Stationers having done the fact, you punished them—You have formerly declared it, and by putting the Question again, you doubt whether 'tis your Privilege or no.

Sir Thomas Meres.] 'Tis only desired you should declare that your Order of the last Session is in force. He knows that in particular business, which dies with the Session, 'tis one thing; but another thing to declare your Privilege. If you are so tender, you do not declare this—Says one "this will destroy the Conference, and the Lords will not agree to give it." Says another, "it may chance to prorogue the Parliament." He likes not that argument, "if not so and so the Parliament will be dissolved."—See what handle you give the
the

the Lords. "If you show fear of dissolving or proroguing, say the Lords, we will carry this point." All he fears, is, that our prudence will lose our Privileges. This is our Privilege when any Counsel appear against a Member in *Westminster-Hall*, or at the Lords Bar, Declare this our right, or else he fears this point will not take at any time of the day—Would not give away Privilege for fear of any Prorogation.

Sir *Edward Baynton*.] There can be no ground lost, if we are prorogued twenty times—He has observed this Debate all along, and can hardly parallel it. Why did we set aside the Question yesterday, but that we should not clog the Conference? And now we go to accumulate all we did the last Session in one Vote—We have divers good Bills before us, and we shall be told in the Country, as we were before, "that we have done nothing."—Some would have a Conference, and now what matter shall we prepare, but such as will never have it? It looks as if we desired Prorogation—He neither fears it, nor would have it—The sense of the House being for a Conference, would have what may tend to it.

Sir *Henry Goodrick*.] Seconds the proposition of a Vote, "for the lawyers being forbidden to plead, &c." He finds that he was mistaken by some gentlemen, that he meant all the Votes, but he means only the Vote he read about the lawyers, and insists still upon it.

Sir *Nicholas Carew*.] We are not free to that Vote now, but we shall be to morrow.

Sir *Thomas Lee*.] Takes the main Question to be the last Vote, about the lawyers. Where are you then, if the Question be put to morrow, and carried in the negative? If it be not seasonable now to pass that Vote, would know the reason why it will be seasonable after the Conference—Is not willingly frightened with the hard words of Adjournment, and Prorogation—You ask the Lords a Conference to morrow, and they grant it presently, and then you deliver your Votes—The Lords cannot reasonably agree to answer your Conference

rence till towards two of the clock, and it may be they will deny it then—Now a negative, you will not declare about the lawyers, and after all is done, you order it, and the lawyers will tell you “they knew nothing of it, and they saw upon your Journals you would not put the Question; therefore they thought you would not commit the lawyers till you had voted their pleading against your Members a breach of Privilege.”—The putting the lawyers in the *Tower*, hindered the Lords from proceeding farther in the cause. Therefore he thinks that 'tis now seasonable for the main Question, and not the previous Question.

Mr *Vaughan*.] 'Tis said “that this is a standing Order, and therefore you need not reinforce it.” But your Vote is a renewal of your Order.

Mr *Williams*.] You were told yesterday that the Lords were the first aggressors in this difference. There is a report this day, that the Appeal of *Whicbrote* is brought into the Lords House. They had not done that this day, if we had not been so remiss the last night—As to the substance, we differ not—We are jealous of the Chancellor, as [being] an Appeal from one hand to the other—We agree no Appeal to the Lords. But 'tis said—“not prudential at this time to declare it” But since the Lords have made the same steps, and resumed all they did before, why should we not make some steps to them? Shall we have no preparation? Not to declare first our subject-matter? As to the precedential part, so much spoken of, we ought to declare our Order. Since all agree that no Commoner can have his Privilege invaded, 'tis no more than what you have done before. Is it not a prudent thing to give gentlemen of *Westminster-Hall* fair warning? If it ends upon the Question not put, is it not a blast on your first Order? The Lords have drawn their swords; let us not walk backwards.

The previous Question about forbidding the lawyers, &c. was carried in the negative.

Re-

Resolved, That a Conference be desired with the Lords [for avoiding the occasions of reviving the differences between the two Houses. The words "in matters of Appeal," and "brought by Dr *Shirley*," were rejected, 130 to 84] But upon division of the House, parties were strangely mingled.

A Committee was appointed to draw up [Reasons to be offered at] the Conference, which were as follows :

"His Majesty having recommended to us, at the opening of this Session of Parliament, the avoiding this difference, if possible; and, if it could not be prevented, that we should defer those Debates, till we had brought such public Bills to perfection, as might conduce to the good and safety of the Kingdom; the Commons esteem it a great misfortune, that, contrary to that most excellent advice, the proceedings in the Appeal brought the last Session against Sir *John Fagg*, [by Mr *Shirley*] have been renewed, and a day set for hearing the cause: And, therefore, the Commons have judged it the best way, before they enter into the argument for defence of their rights in this matter, to propose to your Lordships the putting off the proceedings in that matter for some short time; that so they may, according to his Majesty's advice, give dispatch to some Bills, now before them, of great importance to the King and Kingdom; which being finished, the Commons will be ready to give your Lordships such Reasons against those Proceedings, and in defence of their rights, as they hope may satisfy your Lordships that no such Proceedings ought to have been."

Friday, November 19.

[Sir *Wm Coventry* reports the above Reasons, which were read, and agreed to by the House, and] sent up to the Lords, [and no answer was returned.]

In a Grand Committee, on the [act to prohibit the importation of] *Irish* cattle. Sir *John Trevor* in the Chair.

Mr *Powle*.] The true Question is, Whether, when provisions are cheap, it be for the interest of the nation, and whether manufacturers will not transplant themselves where provisions are the cheapest—The next consideration is, Whether the *Irish*, by this Act, have not converted ground to breeding of sheep, and so have by their trade fallen the price of our wool—Moves that the

Committee that does not so much intend this vote may rise, and the House go upon some other business.

Mr *Vaughan*.] Corn coming in makes the Husbandman careless, and Cattle the Shepherd lazy. 'Tis said the Bill makes provision dear. 'Tis all one to the labourers, whether provisions be cheap, or dear. Their price of work is so too. If you go about to destroy the Kingdom of *England*, then the movers will be in the case.

Col. *Birch*.] Allows it *Vaughan*, imposition for cattle—For he knows his own meaning best, when he moved for imposition on fish.

Several motions being made for *Trevor* to leave the Chair,

Sir *Wm Coventry*.] Said, he apprehended the thing of great moment to impart to the House—He has no secret he would reserve—'Tis hard for any gentleman to say how near the point is to a Question, but what moves him is, he has heard that the Lords are risen, and no answer at all, of the House's desires of a Conference, which was to put off the business of to morrow, in their House, about *Fagg*, and now cannot have effect. His intention was to have come by fair steps to our business with the Lords, though possibly he is under some misconstruction.

Sir *John Trevor* left the Chair. The Speaker resumed it.

Sir *Nicholas Carew*.] Was one of those gentlemen for moderation, and we went to the Lords for a Conference, and the Lords are up, and have sent you no answer. If you do not something, you will prejudice the Commons of *England*. Would therefore vote, before you rise, "that no lawyer shall appear against *Fagg* at the Lords Bar, in this cause, &c." and set up your vote in *Westminster-Hall*, and the inns of court.

Sir *Henry Capel*.] He hears the Lords are risen, and do not sit again in the afternoon; therefore that no
man

man may lie under danger, would vote, "that no Lawyer plead at the Lords Bar in this cause."

Mr *Stockdale*.] He hears of another Cause, *Whichcote's* case; therefore would have the vote general, "that no Lawyer appear in any Appeal, &c."

Serjeant *Seys*.] First declare that the Lords have no power in Appeals in general, and then, what is moved.

Col. *Titus*.] 'Tis necessary to see what votes were made the last Session, and to renew them now.

The Speaker.] When you have once declared your judgment in the right of a thing, you need not renew it, but you may publish it for notification—*And reads the former Vote.*

Sir *Henry Goodrick*.] *Seconds the motion*—We have gone in that temper which he thinks very commendable in us, and safe, so far; since the Lords have neglected this offer, he moves in the behalf of all the Commons of *England*—Would not take this upon report, but would have the Lords books searched, and reported to you.

Sir *Richard Temple*.] To renew your Votes is the way to weaken them. How can you then justify the punishment of the Lawyers, if this Privilege is not always inherent in you? Now you have no Conference publickly, you must let the world know, that now you maintain your rights—You will not have them ravished from you, and he would have this order published, &c.

Mr *Leveson Gower*.] Possibly the Lords may send you some message to morrow—Would have the Lords books searched.

Mr *Mallet*.] 'Tis necessary to interdict the Lawyers, and promulgate it; but if you stay your farther Vote till to morrow, possibly the Lords may appear so dangerous, we may think good to remove them.

Sir *Wm Coventry*.] Though he was one of those who came the most unwillingly to this work, of any man, yet would now give it a dispatch, and seeing that this moved is no declaration of our rights, but a publica-

tion, when that is done, we may see what is fit farther to be done.

Sir *Thomas Meres*.] Is of opinion that it needs no more than what you have done already. The declaration of it your right, is by putting it on your books—It was ever yours before. Would add to the former Question to shew the Commons of *England* we are concerned for them—He will not gall the yesterday's arguments of prudence, which has no effect, you see. In that publication let the Commons of *England* be concerned, as well as ourselves. Would not, in this publication say, "the Lawyers," but "that no person shall defend a cause, by way of appeal, at the Lords Bar, from a Court of Equity."

Sir *Robert Carr*.] Is one who was yesterday for a Conference—Now the matter is what you please to do, since we see we are out of hopes of accommodating the matter. If the Lords proceedings be illegal, and we cannot adjust the matter by fair means, we must justify the rights of the people, that sent us hither. If the Vôte be not so penned already, would have the Commons see, that we defend them as well as ourselves. There are a company of busy men, solicitors; would have them punished, as well as they that come to plead at the Lords Bar.

The Speaker.] You have protected your Member. The foundation of an Order may be first for the people in general, and then for your Members.

Resolved and Declared, That whosoever shall solicit, plead, or prosecute any Appeal against any Commoner of *England*, from any Court of Equity, before the House of Lords, shall be deemed and taken a betrayer of the Rights and Liberties of the Commons of *England*; [and shall be proceeded against accordingly.]

Thus preambled. "Whereas this House hath been informed of several Appeals depending in the House of Lords, from Courts of Equity, to the great violation of the rights and liberties of the Commons of *England*, it is this day, &c.

Copies

Copies of this were ordered to be fixed upon the lobby doors, *Westminster-Hall* gate, the inns of Court, and Chancery *.

Sir *Thomas Meres* occasionally quoting Lord *Holles's* last book,

The Speaker said.] 'Tis an idle pamphlet, and he believes you will dispose of it accordingly.

Col. *Birch*.] When the officers smile, the soldiers say there is no danger, and they are out of fear. Is glad to see our leaders do so. He sees not why you should use the word "Order;" it looking new, would have the word "Resolve." He is glad to see we have no jealousies amongst good friends, now.

Sir *John Trevor*.] In the 17th page of the late book mentioned, the Lords pass by the King; the Lords make themselves sole judges, and the Commons have no part in it at all; and, in page 25, they expound their meaning, "though they judge in the King's name, yet the King has no share in the judgment."

Mr *Powle*.] Would put it so as not to be exclusive of the Commons and the King.

Sir *Philip Harcourt*, merrily.] Moves that the Votes may be put into the *Gazette* in the nature of an advertisement.

Sir *Henry Capel*.] Is sorry the message we sent to the Lords has not the weight we thought they would have made of it. Moves therefore to shut the door to any new Bills, or business, and to proceed only upon such as are already brought in, or already ordered.

Mr *Sacheverell*.] And those that shall come from the Lords, and so far he seconds him.

Saturday, November 20.

The Speaker, to a Customer*, a Frenchman, by name

* On Debate of this Vote of the Commons in the House of Lords, it was Ordered, "That the paper pasted up in several places, signed by *William Goldestborough*, Cler. Dom. Com &c. is illegal, unparliamentary, & tending to the dissolution of the Government." And then upon considera-

deration of the said Vote, it was proposed by Lord *Mokun* to address his Majesty to dissolve the Parliament, and call another, and frequent Parliaments, which, after a long Debate, passed in the negative, 50 to 48.

* A Farmer of the Customs.

Cardonnel, *who gave affrontive words to Sir Robert Holmes, Governor of the Isle of Wight, at the Bar.*] You have abused a Member of this House with saucy words, a Governor, and one in authority. Principles you have brought out of your own country. But, upon your submission, and sorrow for what you have done, you are discharged, paying your fees.

Sir Trevor Williams.] Informed the House of *Sir Nicholas Stoughton's* summoning *Mr Onslow* to the Lords House, in an Appeal, &c.

Sir Adam Brown.] Moved that the Lord Keeper be sent to, to put him out of commission of the peace in *Surry*, being a man of ill principles.

Ordered, That *Thomas Shirley, Esq;* be taken into Custody of the Serjeant at Arms, for his breach of Privilege, &c. and that a Warrant be issued out by the Speaker accordingly.

Ordered, That *Sir Nicholas Stoughton* be also taken into Custody, &c. and that *Mr Onslow* do not proceed to make any defence in this cause.

Sir John Coventry.] Made a Motion that the Speaker might leave the Chair, and that the House may go into a Grand Committee to enquire into the state of the Nation, and into the actions of persons about the King, for we may very well suppose we are not long-lived.

Sir Thomas Clarges.] We are not to suppose "we are not long-lived," but he would have the Speaker leave the Chair. *Which Motion was seconded.*

But an adjournment of the House was carried in the affirmative [138 to 123] which, several said, was by a mistake of the Tellers.

*Monday, November 22 *.*

The House of Commons was sent for up to the Lords House, to attend the King, by the Black Rod, where, without any speech of King, or Lord Keeper, the Parliament was prorogued to *February 15, 1676-7.*

* The Speaker came not to the House, the morning of the Prorogation, till ten of the clock; though the House adjourned the day before to eight the next morning; discour-

sed to be by reason of his apprehension of some smart Motions intended, relating to the present state of the Kingdom.

APPEN-

A P P E N D I X.

This long Prorogation of fifteen months occasioned at that time much disquiet, and produced the following arguments, which it has been thought proper to annex. It does not appear who was the Author.

The Question is, Whether a Prorogation of the Parliament extended beyond twelve months, be not, in construction of law, dissolution.

IT seems evidently that the law cannot intend one thing, and, at the same time, permit another to be legal, which destroys its own purpose and intent. Wherefore if there be laws in force which intend and require the yearly sitting of Parliament, the law cannot admit of Prorogation exceeding the compass of a year, for that were to make the law *felo de se* and to divest itself of capacity to take effect, or to be executed, since during a Prorogation, which is legal, no other Parliament can be called. The law cannot contradict itself, and if it requires the sitting of a Parliament within a year, then the not sitting of a Parliament within a year, must be contrary to law; and so a Prorogation above a year must be illegal. But if a Prorogation beyond a year be illegal, it follows that it is no Prorogation, but a discontinuance, or dissolution, of such Parliament, so prorogued, in the same manner as an illegal commission is no commission. For since Parliaments sit by the King's writ, and since the force and power of those writs must have a legal continuance, to keep and preserve the Parliament in being, (as appears in the case of adjournments) therefore when a Prorogation ceases to be legal, the legal continuance of the Parliament also ceases, and so there is a discontinuance, *viz.* a dissolution. I think that we may take it for granted, that if these laws of *Edw. III.* which require the annual calling of Parliaments, be still in force, then a Prorogation exceeding the compass is a discontinuance, or dissolution. It remains, therefore, to see whether those laws of *Edw. III.* be still in force, and that they are so, appears, because they have not yet been repealed by any subsequent Act of Parliament.

We need not much insist upon the Act 16 *Charles I.* for triennial Parliaments, because that Act is repealed by *Charles II.* but we may affirm that that Act of *Charles I.* does no way repeal the laws of *Edw. III.* but it rather puts the King upon a necessity of executing that trust in a reasonable time, which was incumbent upon him by the laws of *Edw. III.* And this, perhaps, was

was done (though in a way indecent to the Crown) because former Kings had not well executed their trust, in calling Parliaments accordingly; and here, by the way, we may observe the different manner of the law, towards the King, and towards the Subject, for when the law requires any thing to be done, by the subject, it commonly annexes a penalty for the not doing of it, but when the law requires the King to do any thing, (in respect to his Majesty) it is without a penalty, and in the nature of a trust; but yet the law requires the performance of the thing enacted equally from them both.

The Act then in force concerning this matter of calling Parliaments is the 16th *Cha.* II. which, in the first place, repeals that of *Cha.* I. and, by the way, gives us a very good precedent, shewing how an Act of Parliament ought to be repealed. In the next place it recites, and (we may say) confirms the laws of *E.* III. in these words. "And, because, by the ancient Laws and Statutes of this Realm, made in the reign of K. *Edw.* III. Parliaments are to be held very often, &c." Here we are to observe that by the present tense "are" these laws of *Edw.* III. are affirmed still to be laws, for had the Parliament intended or understood those laws to be repealed, they would certainly have said "were," and not "are to be held" &c. This seems to be a judgment in the case, and a judgment of the highest nature; for who can presume to say those are no laws, which the Parliament calls "the ancient Laws and Statutes of this Realm?"

This alone is evident against all that can be said to prove that K. *Edward's* laws, by a long disuse, were obsolete, and antiquated; but, for farther satisfaction, it is answered, that a law, or trust imposed by a law, is not therefore abrogated, because it is not broken, or not executed. How often has *Magna Charta* been broken since it was made, yet that does not at all invalidate the force of it, no more than the not affixing a penalty to a law does make the law less binding; since no penalty, nor constraint neither, is affixed to *Magna Charta*; besides, it may be said, that no prescription lies against the whole Kingdom, any more than against the King, and that in the general maxims, *Nullum tempus occurrit regi nec ecclesie*, and under the word *regi, respublica* is also included. Since in a Government, especially monarchical, and essentially free, the head is never to be taken without the body, nor the body without the head; because that either, separately taken, would be a monster. So that prescription only lies against particular persons, or communities. And, lastly, against the plea of prescription it is answered, that although these laws of *E.* III. have not been duly executed to save a prescription against them, yet Parliaments have

have ever since been sitting much within the compass of 60 years, and every sitting of Parliament is an executing in part that trust which the law of *E. III.* imposed upon the King. Else, in the case of a yearly rent, demanded upon an ancient deed produced in Court, if it be proved, that the rent has been often paid within memory, though not duly and yearly, the rent will be still due in law, and no prescription will lie against it.

It may be objected, that, according to the maxims, *Leges posteriores priores contrarias abrogant*, the last part of this Act of *Cha. II.* wherein 'tis enacted, "that Parliaments shall be held at least every three years," is contrary to those of *E. III.* which say "that Parliaments shall be called yearly," and therefore repeals them. Now to this the answer is plain; that there is no contrariety in all those laws, because all of them, at once, may be executed. For if the King shall call Parliaments yearly, the Act of *Cha. II.* is no less exempted than the Acts of *E. III.* Besides, this last part of the Act of *Cha. II.* is not exemptable, nor does it take effect till after the expiration of this present Parliament, which clearly appears in the very letter of the Act, wherein the word "hereafter," in the enacting part of that law, has a reference to the subsequent words, "within three years from and after the determination of this present Parliament."

We shall close this discourse with these three short observations.

First, That no Parliament, that is not antecedently so, can make itself a Parliament by Vote, for every thing must be before it can act, and nothing can be the cause of itself.

Secondly, That nothing can be more prejudicial to the King and Kingdom than to have a Convention under the name of a Parliament.

Thirdly, That a matter of such high importance ought not to be left dubious when it may be made certain.

Reasons to prove the last Prorogation of the Parliament to be illegal.

IT is a fundamental and unquestionable maxim in the law of *England*, that the Kings of *England* are so bound by all Statutes made for the public good, that every command, order, or direction of them, contrary to the substance, scope, or intent of any such Statute, is void and null in law.

But the last Prorogation of Parliament is an order, or direction, of the King's, contrary to two Statutes, the one in the 4th, the other in the 36th of *Ed. III.* made for the greatest and chiefest
com-

common good; namely, the maintenance of our laws, and the redress of mischiefs and grievances which daily happen; for they both do positively appoint the meeting of Parliament once within a year, and the King, by this last Prorogation of Parliament, has, contrary to both these Statutes, ordered the Parliament not to meet within a year, but some months after.

Wherefore this last Prorogation of Parliament is void and null in law, and, consequently, the Parliament is at an end, because the Parliament cannot meet by virtue of a Prorogation, which is void and null in law, and because that, by the essential forms of Parliamentary proceedings, the Parliament having been dismissed without any legal Prorogation, or Adjournment, there is an impossibility of its meeting at any other time.

This ought to be seriously considered of by every *Englishman*, and whether, if any of the Members of the Parliament, begun the eighth day of *May*, in the year 1661, should act by virtue of this Order of the King's, or Prorogation, they do not admit and justify that particular Order of the King, though contrary to an Act of Parliament, of what importance soever, is yet, notwithstanding, good in law, and thereby allow of what would at once subvert the whole ancient government of *England* by law. For if a particular Order of the King's, upon this present occasion, about the assembly of a Parliament, contrary to the intent of two laws, enacted for the maintenance of all the Statutes of this realm, can be in force against those two laws; then a particular Order of the King's, upon some other occasion, about the raising of moneys, contrary to the intent of the Act *de tallagio non concedendo*, and another against the taking away of any man's liberty, estate, or life, contrary to the intent of *Magna Charta*, must also be in force against those two other laws.

Translation of a Passage out of Knighton's (Canon of Leicester) History of England, entitled, Historiæ Anglicanæ Scriptores Antiqui, page 2680.

KING Richard II. held a Parliament at *Westminster*, on *Monday*, being the morrow after the feast of *St Jerome*, and ended it on the feast of *St Andrew*. During which, the Earl of *Oxford*, who also was Marquess of *Dublin*, was created Duke of *Ireland*, on the feast of *St Edward*, King and Confessor. The King for the most part staid loitering at *Eltham*, whilst the Parliament sat. The Nobles therefore of the Kingdom, and the Commons, with joint assent, sent this message to the King

King, "That the Chancellor * and Treasurer † ought to be removed from their offices, because they were not for the good of the King and Kingdom, and they had also such matters to treat of with *Michael de la Pole*, as could not be treated of whilst he remained in the office of Chancellor." The King, incensed hereat, returned his command unto them, "That they should not meddle with such busineses as these, but that they should proceed to the business of Parliament, and hasten to a conclusion;" saying also "that for them he would not remove the meanest scullion in his kitchen out of his place." For the Chancellor, in the name of the King, had desired of the Commons four fifteenths to be paid in one year, and as many tenths from the Clergy, saying, "That the King was so much in debt, that he could not be otherwise freed from his debts, and other burdens, lying upon him, as well upon the account of the war, as of his household." But they, by joint consent of Lords and Commons, returned this answer to the King; "That they neither could, nor would proceed in any business of Parliament, nor dispatch so much as the least article, till the King came, and showed himself, in his own person, amongst them in Parliament, and would remove the said *Michael de la Pole* from his office." But the King sent this command again to them, "that they should order forty Knights of the most substantial, and wisest of the Commons, to come unto him, and declare the Votes of all the rest." Then were they more afraid every man for his own safety, for a secret rumour had been spread amongst them, that the death of these forty was designed by treachery; for it was said, as appeared afterwards to them, "that, as these should be brought to speak to the King, a multitude of armed men should assault and kill them; or that being invited to a feast, by the King, some wicked men armed should rush in upon them, and kill them; or that they should be murdered in an instant in their lodgings in *London*." But *Nicholas de Exon*, Mayor of the City of *London*, refusing, and no way in the world consenting to so great a wickedness, the villainy was deferred, and the heinous contrivance by degrees brought to light. Making use therefore of wholesome advice, they, by common consent of the whole Parliament, sent the Lord *Thomas of Woodstock*, Duke of *Gloucester*, and *Thomas de Arundel*, Bishop of *Ely*, to the King at *Eltham*, that they should, on the behalf of the Lords and Commons in Parliament, salute him, and deliver him these Votes in this sense.

* *Michael de la Pole*, Earl of *Suffolk*. † *John de Fortham* Bp of *Durham*.

Sir King,

“ The Prelates, Lords, and whole people of your Commons of Parliament, with most humble submission, recommend themselves to the most excellent * * * * * of your royal dignity, wishing you a successful course of honour, and invincible against the power of your enemies, and the most firm bonds of peace, and hearty love towards your subjects, as well for your own good and advantage, as to God and the salvation of your soul, as for the unspeakable comfort of all the people which you govern, on whose part we intimate these things to you, that we have it granted to us by ancient constitution, by customs praiseworthy and approved, which it will be in vain to gainsay; that our King ought to assemble the Lords, Prelates, and Commons of the Kingdom, once in a year, unto this Parliament, as the highest Court of the Realm, in which all equity ought to be manifest, and clear, without scruple, without spot, as the sun when he is ascending to his meridian, where poor and rich may equally refresh themselves in peace and tranquillity, and find a never failing shelter against all manner of injuries; where grievances are to be redressed, where, with the most deliberate counsel, the state and government of the Kingdom is to be treated of, that the King's and Nation's foes within, and their enemies abroad, may be destroyed and overthrown. Where with more conveniency, with more honour, can this be effected and provided for, and the public want considered, than by sound consultation here? In what manner can the necessary burdens of the King and Kingdom be more easily supported? It seems right to them also, since they are to defray the public charges, that they should have their supervisal how, and by whom, their goods and fortunes are laid out. They say moreover, that 'tis their Privilege, by ancient statutes, that, if the King wilfully estrange himself from his Parliament, no infirmity, nor necessary cause, moving him to it, but obstinately, through his ungovernable will, shall absent himself for forty days, as if he did it to vex his people, and wear them out with grievous expences, that, from that time, it shall be lawful for all and every of them, without the consent of the King, to return to their own countries and houses, and there to settle themselves; and yet you have absented yourself for a longer time, and without any cause, that we know of, have refused to appear amongst us.”

To this the King.

“ Now do I plainly discover that my people and the Commons intend to wrest my power, and are endeavouring to make insurrections against me, and, in such a case, nothing seems better

ter to me, than to call in my Kinsman, the King of *France*, and from him to ask advice and aid against those contrivers. Nay, even to submit myself to him rather than to my own subjects."

To which they answered thus.

"This counsel is unsafe for you, and rather leads to inevitable destruction; for the King of *France* is your capital enemy, the greatest and constant adversary of your Kingdom, and if he should once get footing here, would sooner endeavour to despoil you of it, to invade your country, to drive you from your throne, than in the least manner to lend you his sincere assisting hand, if at any time (which God forbid) you should stand in need of it. Rather recall to your mind how *E. III.* your grandfather, and, in like manner, your father *, a Prince of the same name, with sweat and hazard, during their whole lives, through innumerable labours, indefatigably contended for the conquest of *France*, which, by hereditary right, appertained to them, and since them, to you, by succession. Remember, how many of the Nobles, what an innumerable part of the Commons of *England*, as well as those of *France*, and subjects to either state, lost their lives, or underwent the pain of death in that quarrel. Remember the inestimable goods and chattles, the innumerable sums the Commons of *England* parted with for the maintenance of this war, and yet (what is more to be lamented) they have, in your time, sustained so many taxes, for the support of your unsuccessful, unnecessary, unjust wars, as that they say they are reduced to such incredible poverty, that they can neither pay their rents for their livings, nor assist their King, nor afford even the necessities of life for themselves. Thus the kingly power is impoverished, and an unhappy condition brought upon all the great men and Nobles of the Kingdom, as well as the Commonalty weakened and undone. That King cannot be poor who has a rich people, nor that King be rich whose subjects are poor; but these ills not only redound to the King, but to all the Nobility and great men, every one in his rank and degree, and all this is brought to pass by the evil Ministers of the King, who have ill governed both King and Kingdom to this day, and unless we do quickly set our helping hands to the work, and raise the healing prop, the Kingdom of *England* will, in a less time than we think of, be miserably subverted. But there is one part of our Message remaining on the behalf of your people, to be imparted to you. They have an ancient law, and it was not many ages since experimented, (it grieves us that we must mention it) "that if the King, through any evil counsel whatever, through a foolish obsti-

* *Edward the Black Prince.*

nacy, or contempt of his people, through a perverse and froward will, or by any irregular courses, shall alienate himself from his people, and refuse to be governed and regulated by the Laws and Statutes of the Realm, by the laudable constitutions and faithful advice of his Parliament; if he shall throw himself headlong into wild designs, and stubbornly adhere to his own irregular and arbitrary will, from that time it shall be lawful for his people, by their full and free assent, to depose that King from his throne, and establish some other of the royal stock upon it;" which grievances and unhappy dissention, that it may never spring up amongst your people, that your people, by no such lamentable divisions (pleasing only to your enemies) may never, through your evil Counsellors, be subverted; and that the Kingdom of *England*, so honourable, and above all other Nations in the world, from your father's days, hitherto, most famous in war, though now, in your time, through the distractions of ill government, unhappily desolate; that the title and inscriptions of these miseries may never be placed as a scandalous mark upon your reign, and this unhappy age, recall your mind from such foolish counsels, and whosoever they are that suggest such matters to you, not only not listen to them, but wholly remove them from you, for, in event, it will be found that they can no way effectually serve you."

By these, and such kind of speeches, the King, laying aside his anger, was reduced to a better temper, and being pacified, promised "that he would come to his Parliament after three days, and with mature advice willingly acquiesce in their petitions."

The King then came as he had promised, and Lord *John de Fortham*, Bishop of *Durham*, was removed from the office of Treasurer, and the Bishop of *Hereford* made Treasurer. Lord *Michael de la Pole*, Earl of *Suffolk*, was, with much disgrace, deposed from the office of Chancellor; and *Thomas de Arundel*, Bp of *Ely*, was by consent of Parliament, made Chancellor in his stead.

Debates in the House of Commons.

From the Year 1667, to the Year 1694.

Thursday, February 15, 1676-7.

THE Parliament met [When the King in his Speech (which was afterwards read by the Speaker) informed the Houses, "That he had called them together again, "after a long Prorogation, that they might have an opportunity "to repair the misfortunes of the last Session, and to recover and "restore the right use of Parliaments. The time (he said) he had "given them to recollect themselves in, and to consider whither "those differences tend, which had been so unhappily managed and "improved between him and them, was enough to leave them "without all excuse, if ever they fell into the like again. He professed him self now resolved to let the world see, that it should "not be his fault if they were not made happy by the consultations in Parliament. He declared himself ready to give them all "reasonable satisfaction that could consist with Christian prudence, "in the great concerns of the Protestant Religion, as established in "the Church of *England*; and as ready to ratify them in a farther security of their liberty and property (if they could think "they wanted it) by as many good Laws as they could propose, "and as could consist with the safety of the Government."

"As to what he expected from them; first, he did require that "all occasions of differences between the two Houses might be "carefully avoided. In the next place, he desires them to consider the necessity of building more ships. And, since the additional revenue of excise would shortly expire, *they that know him to be under a great burthen of debts, and how hard a shift he was making to pay them off as fast as he could*, he hoped would "never deny him the continuance of that revenue, and some reasonable supply to make his condition more easy."

He concluded, "with recommending to them the peace of "the Kingdom, in the careful prevention of all differences; the "safety of the Kingdom in providing some greater strength at sea; "and the prosperity of the Kingdom, in assisting the necessary "charge and support of the Government. And, if any of these "good ends should happen to be disappointed, he calls God and "men to witness that the misfortune of that disappointment "should not lie at his door."

The rest he referred to the Lord Chancellor.]

[Debate.]

Mr Secretary *Williamson*.] When the King's Speech has been read, it has usually some place given it; and would have it considered the first thing after reading a Bill, as the custom is upon the first opening a Session.

Sir *Thomas Lee*.] He cares not how soon the King's Speech is taken into consideration, but would not lose the method and order of Parliament. You always begin with reading a Bill. The King's Speech is usually about "supply", and that ought to be the last thing considered here. He takes this occasion to put in a claim to method. He is transported with the King's Speech as much any man; but would keep method.

Mr Secretary *Coventry*.] Nobody opposes the consideration of the King's Speech, but because of custom of respect—As the King speaks to us, so we to him, without compliment. There are all things in the King's Speech that can be spoken of in this House, "Religion and Property, &c."—Would look upon the *genus* before the *species*—Supposes thanks to the King, with due consideration of his Speech, very proper.

Sir *John Mallet*.] Mr Speaker, Since we were last in this place, there having been much discourse abroad, and some considerable doubts concerning our coming hither again, it is my duty (having always had as true loyalty and affection to his Majesty's service, as any within these walls, or nation, hath or can have) humbly to offer my advice in this matter of so great weight and moment. That I conceive, before we enter upon any other business, it will be the best way for removing the doubts, which are, or may hereafter, arise, concerning this last prorogation; without letting so tender a matter remain under any doubt or Question, and also that it will be the safest and speediest way for satisfying his Majesty, with satisfaction to all his people, and that they may be assured of such good Laws as shall be made (for his Majesty is so gracious, as he accounts as great satisfaction to himself, to give us the good Laws

we

we desire of him, as to receive the Supply we shall give him) humbly to present our desires to his Majesty, "that he will be pleased to dissolve this, and very quickly call another Parliament." For I verily believe, whatsoever he would have in this, may more conveniently, in a very short time, be had and done in another Parliament. Sir, I could present you with several reasons for it, but I humbly crave leave to forbear mentioning them till you please to admit of this my humble Motion*.

Sir *Philip Monckton*.] No man is more rejoiced to see you here, than he is. It would be a great satisfaction to the Nation to have the two Acts of *Edw. III.* about annual Parliaments, cleared; and moves it.

Sir *John Morton*.] Would do all things regularly. Would first read a Bill, and then consider the King's Speech.

Sir *Thomas Meres*.] Though forms seem but little things, yet they are of great consequence. He will thank the King as much as any man. When a Bill is read, then we are fit for any Motion. We have, indeed, broke that Order of reading a Bill; but when we last met, we did not. Would now read a Bill, and fix that point.

Lord *Cavendish*.] The Motion is of no light nature, since we are told it is a doubt, all over the Nation, whether the Prorogation be legal—Thinks it not for our credit to pass it over without a Question. Though the doubt may easily be removed, yet 'tis fit to be removed. We are told of two Acts of *Edw. III.* and this Prorogation is contrary to them. Desires, that, since these Acts are known, we may see how far these Acts limit the King in his Prorogation. Moves for a Question, Whether the two Acts mentioned be repealed, or not.

Mr Secretary *Coventry*.] Moves to Order. If you admit that Question, you may lay down your Mace, you are no more a Parliament. Who shall dissolve it? Who shall end it? We have nothing to do here.

* The above Speech was given to the Compiler by Sir *John Mallet* himself.

Lord *Cavendish*.] Desires to explain himself. Moves to Order; to clear a doubt. There are books printed of an odd nature. Moves only to know, Whether those two Acts, mentioned, are in force against the King's Prerogative.

Serjeant *Maynard*.] The Question determines what you cannot determine, *viz.* That you are an unlawful assembly. The Question will be, Whether, as a Parliament, you cannot dissolve yourselves. No Question, Whether those Laws are in force, or not, can be put; for you read the very Question as a Parliament.

Sir *Harbottle Grimstone*, Master of the Rolls.*] If we appear here in either capacity, by the Proclamation, or by the King's Writ, it does not therefore follow, that because we appear, we are a Parliament. (*Being called upon to look towards the Chair, when he spoke said,*) He had almost forgot the Chair, it was so long since he saw it. If by freedom of Debate we may obviate doubts, which have troubled worthy and learned men, why should we not? He denies *Maynard's* logic, "That the King's Proclamation will justify our assembly," though we had no more to show for it on the Table. He hoped it had been tumbled out of his brain, but it has been in it, and if the doubt be not at an end, he wishes it was. This may be a Question somewhere else, as well as here, and would remove moot points and doubts in succeeding Parliaments. Many doubts have been so desperate as never to be retracted, unless you remove them here. But, as to his private opinion, he believes we are a Parliament, therefore moves, that the thing may make no more noise, but be pleased to read a Bill, and clear the doubt afterwards.

Mr *Sacheverell*.] Doubts not but we are as much a Parliament, as at our last Prorogation, and believes that Gentlemen, upon Debate of it, will be as fully satisfied in the matter as he is. The Bill offered to be read is the same as in the last Session. He looks upon this Prorogation as illegal, but yet that it is a good Parlia-

* Speaker of the Parliament that restored the King, and an Ancestor of the present Lord Viscount *Grimstone*. He died in 1684, aged 82.

ment still, and that we properly stand upon an Adjournment. Would look back to the time those Statutes mentioned were made in, and you shall see then Prorogations and Adjournments were all one, and for hundreds of years they went on to the same business they left, without beginning again as we have done in Adjournments in later times. There have been Prorogations before the Parliament had once met, and for some reasons, as the King being detained by business, that he could not in person open this Parliament, or for want of a full appearance of Members, put off to a longer day. In *E. I. E. III E. IV.* it runs thus. *Sic Dom. Rex adjournavit et prorogavit, &c.* And he takes this to be an Adjournment. Adjournment is the Act of the two Houses, Prorogation of the King only; and so by Adjournment, your business remains where it did.

Sir Robert Howard.] You are upon the most dangerous Debate that may be, and from which no good consequence can arise. If we meet upon an Adjournment now, then all Privileges of Members stand good, and you lay all people by the heels that have arrested any of your Members. If you debate upon deducible arguments, you set the town at work, and enter the lists at the coffee-houses. If you run once to countenance great things by deducible arguments, you shake laws and mighty things; as your usual Adjournment to eight of the clock in the morning, and you meet not till ten—That [then] must be a Dissolution. In your prudence you should not countenance this so tacitly, by entering into a Debate. Moves to lay aside this dangerous Debate.

Mr Vaughan.] We are out of Order. If the Question be, "Whether by this Prorogation exceeding a year we be dissolved," we debate, and then our result dissolves it. If you resolve Dissolution in the affirmative, you do it in your own case; it may happen that a Parliament intends all the good imaginable, and any one stands up and says, "tis dissolved"—No man will come to Parliaments for the future, by confounding your laws,

thus, as not good; and so it will be a ready way to bring in the new Government so much talked of.

Mr *Sawyer*.] You cannot go to this Question. Admitting the Prorogation void, and that we meet now by Proclamation—*Called to Order by Mr Stanhope.*

Col. *Titus*.] The Session is confessed to be legally opened by reading a Bill. Some gentlemen are for considering the King's speech, and some for our being a Parliament. Read the Bill, and—that's out of doubt.

Sir *Thomas Meres*.] If you read the Bill, 'tis said, "you are precluded; you read it as a Session, and so yield the point in dispute." If it be a Prorogation fifteen months ago, 'tis said to be against law, but he will speak to that another time. This Debate is new; he has not heard of it before, but it must be heard now—And you read a Bill that has been before you at the last meeting—If you determine it an Adjournment, then call for the Report from the Committee, who had it in their care the last Session; else, reading this Bill fixes the matter.

Mr *Sawyer*.] Starting the reading this Bill makes the Question. You ought to begin the Session with reading a Bill, and you meet in no capacity but as a Parliament, not as a Convention. Your Vote will not mar nor mend the matter. If you are no Parliament, will you then depart from hence? There have been books written about this Question—He hopes you will not give countenance to such libels, that say, "we are traytors in meeting, and acting as a Parliament," like the libels of 1641. Moves, therefore, that you will begin the Session with reading a Bill.

Sir *John Birkenhead*.] That a Session must be opened by reading a Bill, is the most popular mistake that can be. Not done, but in the Long Parliament, for 200 years. See if they began the Parliament by reading a Bill in *E. III's* time, or *Rd. II's* time. Till of late, 'twas no essential Order of the House the reading of a Bill—Because books are printed, and papers set upon *Westminster-Hall* door, that we are no Parliament, shall we

we regard such loose objections?—Would have those two laws, spoken of, in force, and if all be allowed, it makes nothing. They say “Parliaments shall be called once a year, and oftner, if need requires.”

The Speaker.] *Birkenhead* stood up to Order, and enters into Debate of the merits, as *Sawyer* did, irregularly.

Sir *George Downing*.] Several Questions, no less than four, are on foot. Pray keep us to Order.

Sir *Robert Carr*.] Leave has not been asked to bring in a Bill.

Col. *Birch*.] Intreats the strong to bear with the weak, and he is one of the weak. *Grimstone* told you “that great pains had been taken about this Question of our meeting; but with much difficulty in the resolution.” He may therefore doubt—

Mr Secretary *Williamson*.] *Birch* speaks against Orders. Is it not in your Power to debate, whether we are a House or not? Therefore 'tis the proper Question, Whether that Debate shall be proceeded in or not.

Col. *Birch*.] When he hears learned persons speak of the danger in not determining the thing, he is more shaken in his doubts than when he came in.

Mr *Vaughan*.] Of what use is your affirmative, or negative, in this matter of doubt, grounded only upon rumours in the streets?

The Speaker.] The Session is not begun till a Bill be read; 'tis the ancient Order, and if so, your Question is, Whether you will break that Order, or not.

Mr *Garroway*.] Knows not whether he shall be so happy in his service as to extricate you out of this doubt. He thinks we may safely read the Bill, and yet the Debate may be reserved. He is one who believes this as good a Parliament as when we first sat. Though yet he is not very fond of it neither. You may read a Bill, but not this Bill offered; let it be any Bill the last Session that had but one reading. Then you may enter into the Debate, Whether this meeting now be by Adjournment, or Prorogation.

Col. *Birch.*] Will speak again, but not contrary to Order. 'Tis now in your choice whether to take a safe or dangerous way in this thing. Does not see you can go on in safety under a Prorogation. It has not been practised, 'tis true (what you have been told) but all that can be said in short, is, whether it be advisable for the Commons of *England*, willingly and knowingly, to act in a Prorogation, contrary to law. One gentleman tells you, "of books and pamphlets abroad on this subject." It may be, he is of that courage, as not to heed them; but he does. Those in the Long Parliament were willing to keep their places, and he never yet met with any that were willing to part with theirs—But he would prevent dogs barking, "that we do contrary to law by sitting as in a Prorogation," and would be provided against this, not knowing what this may overturn hereafter. The last Convention met upon a new foundation—Should we now give money, and the people deny it, and twelve men come to dispute it, in a jury, what will become of us that made that Act? Therefore would act as in an Adjournment, and read such a Bill. If not, would adjourn till *Monday*.

Mr *Harwood.*] We have the title put upon us as a lawful Parliament. He is not very fond of this Parliament—His understanding reaches not so far, as to judge of these statutes mentioned, but, if they are in force, would know whether a Prorogation of above twelve months puts us not out of capacity of being a Parliament; and then, whether our being then called together by Proclamation can make us a Parliament. If those laws be in force, we do ill to break them, and we do them great violence to meet now as a Parliament. Discourse of people abroad is a great thing, and not to be slighted—We are not safe from the law taking hold upon us. No man has the impudence to break the King's Prorogation, and yet he would not part with the people's liberty. Would talk no more of it now, but adjourn till *Monday*.

Sir *Charles Harbord.*] All Parliaments are in being till dissolved by death of the King, or by word of his mouth.

mouth. There have been several Prorogations of fifteen months.

Mr *Vaughan*.] If any man without doors should tell him "that he has broken a law, by meeting as a Parliament," he knows how he should use him; and if people say "no Parliament," they may say "no King."

Mr *Powle*.] There has been great noise and clamour about this long Prorogation abroad. This is not so slight a thing, but ought to have some resolution. 'Tis a new thing, and therefore rationally to be resolved. But reading a Bill does tacitly determine the Question. Suppose the next Successor to the Crown, should call the same men again of the Parliament of his Predecessor; he believes that every man would unanimously represent it to the King as no Parliament. He is not of opinion that either we sit by Adjournment, or that 'tis a Dissolution, but that 'tis good. Would adjourn now, and settle the matter afterwards.

Mr Secretary *Coventry*.] Would have the Question stated in Order. If it be not a Parliament, how shall you adjourn? State the Question about the Bill, and the other Debate may follow.

Mr *Ruffel*.] He is no great reader of Statutes, and therefore is no competent judge of those mentioned, but since 'tis a Question, whether they be in force, or no, men must be satisfied. Therefore he moves for an Address to the King, That we may (to put all things out of doubt) be dissolved.

Sir *Richard Temple*.] Because the legality of our meeting is questioned by libels without doors, must we therefore make it a Question within doors? Heretofore, at the opening a Session, the Speaker chose some Bill to be read, that would probably take up least Debate—And would punish those who have dispersed these libels. The King has had advice, without all doubt, about this Prorogation—And when a Bill is read, you may proceed to punish the authors of these libels.

Sir *John Coventry*.] Would have the House, in the least of our actions, express our loyalty. He believes this

to be a Parliament, and as good as ever it was, but hopes we sit not by Proclamation-law. He plainly sees we have sat so long that the people are weary of us; and seconds the motion for an Address to the King to dissolve us.

Mr *Williams*.] He is of opinion, that the Parliament is in being, but whether by Prorogation or Adjournment, is the Question. He is against reading that Bill, because 'twill stop the mouths of gentlemen in the Debate, and by it we must admit ourselves to meet now under a Prorogation, and, for the like reason, is for reading the other Bill, and reserving the farther Debate. He hears discourses abroad that we are dissolved by this long Prorogation. We cannot constitute ourselves a Parliament, if we be none; but by our solemn Debates, with reason, we may, in some measure, satisfy the world. Therefore moves for the Bill to be read a second time.

Sir *George Reeves*.] Offers a Bill "for regulating Elections of Members of Parliament," ordered to be brought in the last Session.

Lord *Cavendish*.] Either we are under a Prorogation, or an Adjournment; if under an Adjournment, a Bill ought not to be read; therefore of necessity that Question must be determined.

Sir *Thomas Meres*.] 'Tis a matter of great weight, and great use; it may be, it clears that point—We are not dissolved, 'tis late in the day, and would have *Reeves's* Bill read.

Which was read accordingly, and ordered a second reading.

Sir *Thomas Meres*.] A Bill is now read, and, before it, the King's Speech was read; doubts not of hearts full of thanks for the King's gracious expressions in his Speech—No man doubts but the matters of it are of great weight, and we should have, at least, two or three days time to consider it; therefore moves for *Tuesday* morning to take it into consideration.

Mr

Mr Secretary *Coventry*.] 'Tis not you that dissolve or call Parliaments, but he fears 'twill put the Kingdom in an uproar, to leave the thing at large, whether 'tis an Adjournment, or Prorogation. Moves, for respect to the King, That his Speech may be the first thing taken in hand. No man thinks to settle the affairs of the Kingdom in one day. "To take the King's Speech into consideration", without saying any day, would be a disrespect.

Sir *John Holland*.] What is propounded to, and required from us, is for the King's service and our greater security. The preservation of liberty of speech is so necessary to be allowed and enjoyed, that without it nothing can be brought to good effect. His reason of saying this is, because that, at the last meeting, he took upon him to represent the poverty of the Kingdom, and he thinks that discourse is as seasonable and necessary still. But he was so unhappy, as, by some amongst us, to be represented to the King, as a person ill-affected, and [one who] had made a dangerous, and seditious speech. Had he done so, you, Mr Speaker, would have reproved him. But one amongst the rest said to the King "that he sat by him in this House, in 1640, in the Long Parliament, when he made the same speech." Whoever that person was, he said false; and he appeals to any gentleman, whether he ever made any such speech in 1640; and whether what he said could, in any measure, be suitable to those times. Possibly this person might thus represent it to ingratiate himself with the King. What subject can bear the displeasure of the King? 'Tis possible that the person that informed this, or some other, may suggest that he now started this complaint to interrupt "the King's business" (as of late "Supply" has been called) but he looks upon Supply to be as much ours and the Kingdom's business as the King's, and must stand together. No man can be so malicious as to say he has spoken now to delay the consideration of the King's Speech, and hopes we shall hear no more of that. But
he

he designs this complaint, not for reparation of the injury he has received, but for the sake of his fellow-Members, for the future, that they may not be so represented. Therefore he moves you to consider of a Petition to the King, "to represent the ancient right, and necessary Privilege, of freedom of speech in Parliament, and that he would be graciously pleased not to give any credit to such reports." Consult but the Journals, and you will find the thing frequently done. In the 19th of King *James*, 'twas done, on the like occasion, and as anciently as *H. IV*'s time. *Cotton*'s records take notice of it. "The Commons, in full Parliament, thanked the King for the maintenance of the Catholic Faith*, and desired him not to give ear to common reports, till the end might try the thing." (Which seems to him to have the face and force of a law.) In the 19th of *K. James*, in the treaty of the *Spanish* match, concerning the indulgences then given to Catholics: Some of the Commons thereupon making some smart speeches, which were reported to the King, 'twas then humbly desired "that he would not give credit to common report, till he was informed of the transactions of their House, by themselves." And he moves for a Committee to draw up an Address now to the same effect.

Sir *Harbottle Grimstone*, Master of the Rolls.] *Holland* has given a long and sharp charge, and he desires that the person he accuses may be named, that has so represented him to the King.

Sir *John Morton*.] His blood rises at this, and would have those flattering courtiers that have done this named.

Sir *Tho. Lee*.] He thinks that no man can live happily, or safely, under his Prince's discountenance. He thinks that the representation of *Holland* thus to the King is a reflection upon the whole House, if the person who has made such a speech, as is represented, should be let go here, without reproof. You ought to require *Holland* to name the person that has done this, or to give you some inducements to believe it. Till you do yourselves

* The scheme was then of the Pope's.

right in this business, you cannot proceed to farther business.

Mr Secretary *Coventry*.] A complaint not made within a certain time ought not farther to be enquired into, as he conceives this to be.

Sir *Anthony Irby*.] Possibly *Holland* knew it not till lately, and he complains as soon as he can.

Sir *Thomas Meres*.] *Holland* says "that in consideration of Debate on the King's Speech, he desires freedom, &c." Would have him tell you what inducements he has to believe it, and the motion cannot die; you can proceed no farther till this be over.

Sir *Thomas Clarges*.] This strikes at the root of all affairs before us, religion, safety, all our liberties and laws. They have opportunities about the King, by frequent conversation with the King, to expose us according to the fancy of those about him. Since we met last, many were traduced, and some thrust out of Court, and employed in the country. No man ought to be forbid the Court, and we cannot by law be forbid our right of application to the King. This destroys confidence between the King and his people. When once a man, that has borrowed money, breaks his word in payment, lands must be mortgaged, and so disputes arise. This will destroy all course of Parliament, and moves to have the person named.

Sir *John Holland*.] What he said was, that this might not be brought into example, nor upon the stage; and makes it his suit not to name the person; though he can name him. But humbly begs to be excused. (*But being commanded to declare the person, said,*) He will always give obedience to this House, and will declare who the person was. He looked upon the person as his friend. He who first told him of this is since dead, and he did not name the person. At that time two of our Members were present, when my Lord Chief Baron *Turner* told him, "that a person told the King of his speech, that it was the same he made in 1640, &c." as before. He did not press the Chief Baron to
tell

tell him the person that told the King so, but a noble Lord told him, "that the person that told the King so was Mr *Ashburnham*, the Cofferer."

Mr *Ashburnham*.] He should have thought himself to have been the last man named for it. But he had rather that *Holland* should chuse him than any other, because he has the least reason to accuse him. He desires that the Lord who told *Holland* this may be named. He does positively affirm that not one word of truth is in the thing. He abhors it more than *Holland* and all the world.

Mr *Sawyer*.] If ever this was done, would have it proved, or the person named that can prove it.

Sir *John Holland*.] That Lord who told him it is a person of great honour. He did apply to that Lord, by letter, for leave to name him. 'Tis Lord *Townshend*; and he will avow that the Lord Chief Baron told it him.

Sir *Thomas Lee*.] Hears it said, that Sir *Francis Clarke* was present, when the Lord Chief Baron told it to *Holland*.

Sir *Francis Clarke*.] He knows nothing of it, to the best of his memory.

Sir *John Holland*.] *Clarke* was present, when my Lord Chief Baron said it, at dinner.

Mr Secretary *Coventry*.] *If one should rise from the dead, they would not believe*, was said in another case. But if the Chief Baron should, you would not believe the thing upon this ground. Unless *Holland* will bring in one that heard *Ashburnham* say the words, or say he heard them himself, 'tis nothing.

Mr Secretary *Williamson*.] Is sorry that it came in, and sorry that it must go out thus. A gentleman has been named, and he would have some satisfaction given him.

Mr *Ashburnham*.] He desires no other satisfaction, but that he despises the information.

Resolved, That it doth not appear [to this House] that Mr Cofferer *Ashburnham* hath failed in his duty to this House, by traducing Sir *John Holland* to his Majesty, for having made any

any scandalous or seditious speech [in the House, against his Majesty, the last Session]—And so this went off.

Mr *Neale*.] Thinks *Tuesday* a great while to defer the consideration of the King's Speech, considering you give him no thanks for it in the mean time. Moves for *Monday*, and no business to intervene, no, not Privilege, till the safety of the nation be provided for.

Resolved, That the King's Speech be taken into consideration on *Tuesday*.

Friday, February 16.

Sir *Robert Holt*, a Member, and Prisoner in the *Fleet*, [at the suit of Mr *Edmund Prideaux*] wrote a letter to the Speaker, of his detainer there, desiring it might be represented to the House, that he might have his Privilege of attendance—With a Petition, delivered by Sir *Henry Pickering*.

Sir *Thomas Lee*.] Would refer the Petition to the Committee of Privileges, and let them state the case to you.

The Speaker.] In Sir *John Prettyman*'s case, he was a prisoner, at the King's suit; but was brought to the Bar, and discharged.

Mr *Powle*.] Would have the matter of a prisoner in execution debated; men else may be wronged of their just debts. In King *James*'s time, Sir *Robert Shirley* was sent for out of prison by a *Habeas Corpus* (to Chancery) that the execution might not be voided.

The Speaker.] In *Shirley*'s case, by the Statute of 7 of King *James* “all persons taken in execution, discharged by Privilege, shall, after Privilege, be retaken upon the same execution, without prejudice to the creditor.”

Mr *Sawyer*.] If this was an Adjournment, there would be no Question of *Holt*'s Privilege, and the Question must be, Whether he was taken in time of Privilege, or no. *Prettyman*'s case. That Statute of 1st King *James* extends only to matters within Privilege.

The Speaker.] No person that takes a Member out of Privilege shall be punished; but it never was a Question, that a Member should be detained from your service here.

Sir *Richard Temple*.] That case, in the Act, 1 King *James*, was grounded upon one taken out of Privilege. No man denies but that the man must be delivered, to attend your service. That Statute is for the interest you may have in your Member, and the party have re-execution.

Mr *Williams*.] That Statute of 1 K. *James* was made in favour of the Creditor, and not of the Member, and it clearly concerns Members taken in execution in time of Privilege.

Sir *Thomas Meres*.] In the case of *Prettyman*, there was a Petition, and the cause was heard at the Committee of Privileges, and there is no other case comes home to this of *Holt*. If you will go by that case, you must hear the creditors. If a Petition be pressed to be read, he would have any Commons Petition heard.

[The Petition from Sir *Robert Holt*'s creditors was read.]

Sir *Job Charlton*.] The case is not *Holt*'s unjust dealing with his creditors, but the danger of having your Member detained from his attendance here, and you may empty the House at this rate.

Sir *Thomas Meres*.] 1 K. *James*, *Shirley* was taken in execution, in time of Privilege, some few days before the Session.

Mr *Sawyer*.] The thing was never done before *Prettyman*'s case, and untill that case all former records are flat precedents against it, when a Member has been out-lawed before time of Privilege. He is as much for Privilege as any man, where 'tis for our being, or well-being, but would not enlarge where we find no warrant for it by antiquity. Would refer this matter to the Committee, and enquire the time when the Member was arrested.

Sir *William Coventry*.] There is *Prettyman*'s case against *Prettyman*, one arrested at the suit of the King, where

where he was the King's debtor, and another against a private person. There is Privilege against the King, but not in cases of felony, treason, or breach of the peace. But, in ordinary prosecutions, there is Privilege against the King, as well as against another man. He (*Prettyman*) was judged to remain in prison, in the King's case, against Privilege of Parliament. Would not therefore swallow this case upon one precedent of *Prettyman*, when another precedent of the same person is in the case.

The Speaker.] No man can show a precedent of any one Member detained in prison, since the Statute of 1 *James*, upon execution, the Parliament sitting.

Mr *Vaughan*.] That Statute was never extended in its interpretation against common right. You ought to refer the creditors Petition to a Committee.

Mr Secretary *Coventry*.] Would have you enquire what the real Privilege of the House is. You have yet heard but one party, the creditors. If you hear *Holt* at the Bar, and hear him not as a Member, you make him criminal.

Sir *Thomas Meres*.] Would have it heard at the Committee of Privileges (when it sits) the first thing. No man will be so disingenuous, as to take any advantage upon the point, the Prorogation being now in dispute.

Upon the Question, whether the Debate should be adjourned to *Monday*, it passed in the negative, 154 to 143.

Sir *Thomas Meres*.] Would commit it generally, without saying to what Committee, that the point of Privilege may not be precluded.

Mr Secretary *Coventry*.] Wonders you will commit it, and not name to what Committee, a thing never done before !

Sir *Philip Warwick*.] If ever any precedent can be shown, that before the Grand Committees were named, ever any Committee else was named, he will yield the point.

Serjeant Maynard.] You can know the cause of detainer from no man, but the keeper of the prison. There may be some causes why he may not be let out free, as felony, treason, &c. But, as to this matter, precedents are on both sides, and he would refer the matter to Committee.

Resolved, That the matter of Sir *Robert Holt's* [case] being [taken in execution, and] detained a prisoner in the fleet, and thereby hindred from attending [the service of] this House, be referred to a Committee.

Sir Thomas Meres.] The next step properly brings on the business of the day. If the Prorogation we now meet upon be contrary to two laws, and we meet upon an Adjournment, then you have a Committee of Privileges ready named. If the meeting be good upon the Prorogation, then you are to name the Committee.

Mr Sacheverell.] As the next thing in order, moves to consider of naming a Committee.

Mr Garroway.] The thing was moved yesterday, and debated with modesty. In this matter he desires so to serve his country, as not to be hanged for it hereafter, upon the unhappy consequence of the King's death (which God avert!) If we now go on to the Question, then we shall see farther how this Prorogation for fifteen months is good in law. If it be not good, then how dangerous will our proceedings be as a Parliament? The Debate will be long; therefore would adjourn it till to-morrow, nine of the clock. And if we shall be so happy as to bring this to an issue, 'twill be much for our comfort, and the King's satisfaction.

Mr Secretary Coventry.] Will always concur in all the coolness in Debates that may be, and to come fresh to this matter; and concurs with *Garroway's* motion.

Sir Thomas Meres.] The existence of this Parliament is granted, on all hands; and so would adjourn the Debate till to morrow, nothing to intervene.

Saturday,

Saturday, February 17.

The same Debate resumed.

Mr *Sacheverell*.] All his design in this matter is to go on fairly—He takes the Parliament to be continued, by Prorogation, or Adjournment, or by somewhat *tantamount*. 'Tis resolved fully that the Parliament can be no way dissolved, but by the King. No other way, but by matter of record, in the Journals. Either then we stand on the state of the Prorogation, or Adjournment. Therefore he doubts not but as freedom of speech is his and the whole Parliament's right, so there will be a candid acceptation of what shall be said. The matter now is discoursed abroad, (but he is satisfied of his right) that the Lords sent to the *Tower* were censured for something we are now upon*. Takes it to

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* The Parliament had been prorogued for more than a year. So it was made a Question, whether by that it was not dissolved. The argument for it was laid thus. By the ancient laws a Parliament was to be held "once a year, and oftener if need be." It was said the words "if need be" did not belong to the whole period, but only to the word "oftener;" so that the law was positive for a Parliament "once a year;" and if so, then any Act contrary to that law was an unlawful Act. By consequence, it could have no operation. From whence it was inferred, that the Prorogation, which did run beyond a year, and by consequence made that the Parliament could not sit that year, was illegal; and that therefore the Parliament could not sit by virtue of such an illegal Act. Lord *Shaftesbury* laid hold of this with great joy, and he thought to work his point by it. The Duke of *Buckingham* was for every thing that would embroil matters. The Earl of *Salisbury* was brought into it, who was a high spirited man, and had a very ill opinion of the Court. Lord

Wharton went also into it; and Lord *Holles* wrote a book for it: But a fit of the gout kept him out of the way. All the rest of the party were against it—Upon the first opening the Session, the Debate was brought on; and these Lords stood against the whole House. That matter was soon decided by a Question. But then a second Debate arose, whether these Lords were not liable to censure, for offering a Debate that might create great distractions in the subjects minds, concerning the legality of Parliament—And it was carried, to oblige them to ask pardon as delinquents; otherwise it was resolved to send them to the *Tower*. They refused to ask pardon; and so were sent thither. The Earl of *Salisbury* was the first that was called on. For the Duke of *Buckingham* went out of the House. He desired, he might have his servants to wait on him. And the first he named was his cook; which the King resented highly, as carrying in it an insinuation of the worst sort. The Earl of *Shaftesbury* made the same demand. But Lord *Wharton* did not ask for his cook. The Duke

of

be his freedom, but desires that gentlemen will tell him before hand, if 'tis not your pleasure, that he should go on in this Debate.

Mr Secretary *Williamson*.] The gentleman has ingeniously told you of our freedom of Debate here, if we keep within the bounds of prudence; but he doubts this matter comes not properly under our Debate. As to right, or as to conveniency, we run into intanglements without end, and have no fruit of it—But to the *Modus*, how we are a Parliament, no fruit can be of Debate how we are continued, and that can but end in a Vote; which will not signify any thing. The Acts of the Prince are sovereign Acts, and most sovereign. Sees no effect if either House should take such Debates in resolution. The two Houses may differ in opinion, and neither can judge the thing, and consequently there can be no determination—Therefore the Debate will be highly inconvenient, and desires it may be laid aside.

Mr Secretary *Coventry*.] Would have you consider what you *must* do, and *should*, as well as what you *may* do. He finds no obligation upon you; as when being part of the legislative authority, and none of the judicial; and no part that we can assume in this determination—When we acquiesce in the Lords, if any Court can judge it, that can, or the King. When the King sends for you up, and he declares a Prorogation, and you not hear it, is it more or less a Prorogation for your not hearing it? 'Tis the Journal that proves it, and the King says “you are prorogued,” and will you say “you are adjourned?”—You have no such power. The main foundation is quite mistaken—Where there is an illegality in the Act, that is no Act—The Act is vitiated so far as the Lords declare it—Great inconveniency else will follow. Law is law, just or unjust. Suppose people married without licences, or after twelve of the

of *Buckingham* came in next day, and was sent after them to the *Tower*; and they were ordered to continue prisoners during the pleasure of the House, or during the King's

pleasure. Three of the Lords lay in the *Tower* for some months; but they were set at liberty on their petitioning the King. Lord *Sbastesbury* would not petition. *Burnet*.

the clock, or a child christened, and the sign of the cross omitted;—is the child not christened, or the persons not married? The law annuls it not. The law says, “a man shall not be above an hour in an Alehouse, or Tavern,” and a man has been there three hours,—and shall he not therefore pay his reckoning? He takes it for granted that omission of circumstances does not annul laws.

Mr *Vaughan*.] *To Order*. Would not slip on a rock, as before. The Question was brought in by a side-wind, only to say, that we are a Parliament, and when we come to argue that we are not—

Mr Secretary *Coventry*.] *Goes on*—Though the thing were illegal, it infers no profitable Debate upon it. No issue can be of it. Will you go to the House of Lords to reverse it, if it be your opinion that they are out of the way? The Quære is, if your meeting should be called in Question another time, and therefore for our own safety we examine it. What can another Parliament question? Every thing, but a dead man—This body cannot question it, but may not particular men? God forbid he should say what a future Parliament cannot do! Every particular man must answer, and he has as much to say for it as can be, *viz.* The King, Lords, and Commons determine it to be a Parliament. But suppose it were a Prorogation for ten, twenty, or thirty years. In the *Chatham* business, though the King had prorogued the Parliament before, yet we met—Whether can the King alter the time, or no? If he cannot, the King will be put upon a necessity of parting from a Parliament, when he has no mind to it. This power therefore of Prorogation must be. If the King prorogue for twenty years, yet he may call you at any day. But this would divide the whole nation, if it should be that the Lords sit by a Prorogation, and the Commons by an Adjournment. This is not to quiet the people, nor to do good. What will you debate of, if the Question be carried for an Adjournment?—Yet if any thing remain on your Journals,

'twill cause doubts abroad. Therefore would lay aside the Debate, as fruitless.

Sir Thomas Meres.] *Coventry* has let you into the Debate, and has argued it, and you cannot now retract. One side has argued, and may not the other? And the House has twice ordered this very Debate. He concerns not himself with the Lords, they may have Judicatures that he knows not of, but 'tis his right to speak, and he (*Sacheverell*) may go on with the Debate.

Mr Waller.] A day and an hour is now settled and appointed for this Debate, and before had been the proper time to dispute this. *Sacheverell* would not be suffered to go on, and yet *Coventry* enters into the Debate. He has seen Parliaments here never elected nor chosen by the people. The Convention made no doubt of their sitting, though not called by the King's writ, and he particularly heard the Debate of that call; that all the nation might know they did not desire to perpetuate themselves—A Bill was read, and avowed by that Parliament. He desires that *Sacheverell* may go on, and he will then tell you his mind farther.

Sir John Ernly.] That books are written of this, he makes no account of. But as for Adjournment, no man will debate things settled. 'Tis in the power of the King to make peace and war, dissolving and proroguing Parliaments. We must be judged by the King, and the Lords entering his proroguing or adjourning the Parliament on record, and the Lords will not retract that. And 'twill not be denied, but that we can adjourn as we please. Will not enter into the Debate, but would have Committees named.

Sir William Coventry.] Did never think of this hindrance that we have met with. It seems to him a confirmation of leave to enter into the Debate, by the day appointed for it, and unless it had been under a general acquiescence, and no motion intervening, desires to reserve his opinion, till he can establish it by those lights he shall receive by other men. He never
yet

yet knew that what the Lords had done, was established for a rule for us to go by. For sometimes we have converted them, and in some things they us. The Lords sending their Members to the *Tower*, for proposing and debating in their House the dissolution, gentlemen have reason to use that caution, to have some security whether they may debate this point, or not. He has no desire that this, or the other opinion, may prevail, but that we may not be questioned hereafter, if hereafter it should be started, Whether two Bills of the same nature can, in one Session, be Parliamentary. On that of recall of the *French* forces, and so of all others, there may arise disputes, if this point be not cleared. No man will say this is a trivial thing. Shall we in such a weighty matter rest on any single opinion? 'Tis the wisdom of this House to judge this, and if we find inconveniences in the one or other, then to embrace the least. He is sure he shall answer all that is done here by his acquiescence in it. But that the Lords authority should keep us from Debate, hopes we never shall acquiesce in. Therefore would have a Question, whether we should proceed or not.

Sir *John Ernly*.] Prorogation is the act of the King, and not the Lords. They have no more power to do it, than we with them.

Sir *Edward Dering*.] We had a fair intimation that the thing should be debated—But a kind of tacit Order. Would not put the Question on the Debate; to have nothing on our books. That tacit Order was only, whether Debate, or Adjournment. He consents we should keep to that Debate.

Sir *Joseph Tredenham*.] Would not, upon the Question, take in the King's Prerogative. We are all very tender in questioning his power, to call, prorogue, and dissolve Parliaments.

Sir *Charles Wheeler*.] Was not forward for the Question, but because it was calmly reasoned, without Debate, and the Question then laid aside. The same temper now follows—And many inconveniences are laid

before you, and there may be more in this Question—He sees no inconvenience but what may be remedied by a short Bill—When there may be difference betwixt the Lords and us, and if not an infinite necessity upon us, yet he would avoid it. Difference in any other way is to be avoided. He has reason to think that the King will pass such a Bill—Would lay aside the Debate, as much better not to go forward.

Sir Thomas Lee.] The Question is, whether you will proceed in the Debate, or no. You are told how to remedy this doubt by a Bill, such a course cannot be the remedy, because you cannot tell from what that Bill must commence. If we shall get good Bills, would willingly go home with the assurance of the time of commencing them. If we cannot judge our own proceedings, we can judge of nothing. As for the Prerogative, we see that reversed when the thing cannot be done, and, we may remember, the *Canary* Patent was voided here, though granted by Prerogative. If the King should make an Act to interrupt this Session, and that we must begin again—He knows not the law (he confesses) but would hear it from them that do—Put the Question, for satisfaction.

Serj. Maynard.] He knows his own opinion, and makes little doubt of the legality of this Prorogation; but so many do, that he would have every man go on as he pleases, for his satisfaction.

Mr Garroway.] If the thing be left a moot point, whether we shall debate it or not—For every man's security, he would have the Question put for the House to declare its sense, and if any man go beyond his duty in it, you, Mr Speaker, will take him down to Order, and before we say any thing farther, would have the Question, whether we shall proceed in the Debate, or not.

Mr Vaughan.] Is against the Question; for when you put the Question, you doubt, and yet take upon you to determine. The matter of the Question is, whether Committees shall be nominated; not whether we are a
Parliament,

Parliament, or not a Parliament. 'That is a safe Debate ; not to argue one thing, and be of another opinion ; and no Question at all, by this means, will be upon your books of the legality of this Prorogation.

Col. *Birch.*] Did not think that a thing so universally consented to would be opposed. A strange thing it is surely, and for some great reason, if the thing is not to be debated here, before you. The Lords may be supposed to propose for money in the other House, and that might be matter of their commitment. We need not apprehend that so much. You cannot go off from this Debate. 'Tis absolutely necessary that every man should be free to debate, and what hinders it ought to be removed. But if the thing be debated, and overruled, as it may be, in such an untrodden path, he knows not what may become of us in our freedom. Therefore put the Question, whether we shall go on in the Debate, or not.

Mr *Swynfin.*] The Question before you is, whether you will proceed in the Debate ; which he thinks is, whether we now sit by an Adjournment, or a Prorogation, and you ought, by the duty of the Speaker's place, to form us a Question upon it, as the sense of the House seems to you ; and then 'tis ripe for you—There is no hurt in putting the Question, but great hurt in not putting it—There seems a great tenderness in you ; but, by this Question of naming Committees, you multiply Debates, to no purpose. The main Question will save us all that labour, or the Question, whether that Question shall be put, or no, frees the House from much trouble, and all doubts will be taken away by it.

Sir *Thomas Littleton.*] Two things alter the case, without doors and within. He has heard that *Mary*, there was a Question made of acting by that summons, because, in the writ of Summons, her style of "Head of the Church" was left out, and it was referred to the Judges. The Parliament comes on, and it was a Question then like this Question now. The like was in Queen *Elizabeth's* time, and then there were no

such direful apprehensions of the consequences of such a Question. But as for naming of Committees, and then to resume the Debate of this doubt, he knows not what two or three gentlemens words are good for to secure it us. Then, it may be, we shall be told, we must not meddle with it. Therefore he would not be precluded,

Then the Speaker stated the Question.

Mr *Garroway*.] Agrees with what the Speaker said, but would have it with something more. The Question is plainly, whether we shall go on now upon the matter of Prorogation, or Adjournment.

Mr *Sawyer*.] He takes the Question to be dangerous. It doubts our being. By a previous Question you determine the matter. It will be upon your books. As to that spoken of, 1 *Mary*, the House fairly concealing the doubt, they put no Question upon it, but referred it to the Judges. There it was never put to vote, whether that was a Parliament, or not, but it was referred to the Judges, as a scruple of law. What confusion would there be if we differ in the matter from the Lords? And when the Records and Proclamation say this is a Prorogation, shall any man say, whether this be a Prorogation, or not? Things clearer then the Sun are never put to the Question. Shall any man say he doubts without reasons? Is there cause to make a Question in this House? Things that are the essence of government shall we make doubt of?

Mr *Powle*.] Many inconveniences have been alleged by this Question, but thinks them not of so much weight, nor the government shaken, nor the being of the House, because resolved. 'Tis said by it, we shall thwart the Lords opinions. We do that every day in Conferences; we to them, and they to us. The proper use of Parliaments is to inform the King, and by this we do it. Unless some persons think themselves touched in the Prorogation's being carried in the negative. 'Tis very necessary to mention freedom of speech; We hear
what

what is done in the Lords House, and he knows not, but that gentlemen, who would avoid this Debate, may call such to the Bar, as are of a contrary opinion. Therefore the House has no security of entering into this Debate till a Question be to admit the Debate. 'Tis our right to demand a Question, and when we are under such a vote, we are under the protection of the House. 'Tis said, "that the Question of Prorogation, or Adjournment, will be brought in by a consequence of the Question of naming Committees:" But, possibly, that argument afterwards will not be suffered to be used. 'Tis but on the word now of a few, and by the Question of "Prorogation, or Adjournment," every one may have security in what he shall argue, for the future.

Col. *Titus*.] Knows no way to be resolved of this, but by a Question. It was no doubt. Why none, before concluded—We read no Bill of the last Session, because we proceed not were we left off before. 'Tis a doubt still—Some say it is not fit to be a Question; which shows that the thing is not determined. 'Tis objected that we have leave to go on, but 'tis true by a gentleman only that has given leave; but did he fear his own censure only, he has no cause to fear. 'Tis said, in the Lords House, it was debated; and there must be a Question, unless we shall conclude the doubt without a Question.

Mr *Hale*.] He has no reason to believe the matter so formidable, or intricate, but that gentlemen, upon Debate, may bring it to light. To name Committees before the Question, makes the Debate precluded. In point of safety we cannot go on, unless we have the warrant of a Question. We hear the Lords are committed for debating this matter, and closely*, and he knows not what farther may become of them. No

* The Lords [in the *Tower*] were without leave from the King, or much visited. So to check that, the House; and particular observations were made of all that asked though no complaint was made of their behaviour, they were made leave. This was much cried out close prisoners, not to be visited on, *Burnet*.

man will say that he believes it against his duty to argue the point, but knows not what construction may be made of it without a Question—Therefore moves for one.

[*Sir Henry Capel.*] Thinks it necessary we should have a Question—Some apprehend a Question for fear of precluding the Debate; others are cautious not to enter such a Question into the Journal; others for liberty and freedom of Debate. He offers this Question, to reconcile all—"That *Sacheverell* may go on in his Debate."

[*Mr Williams.*] Some men are cautious, he finds, and tender for any footsteps of this doubt upon our books. Others are the same for freedom of Debate. He moves for a Question, not only of the validity, but irregularity of the Prorogation.

[*Mr Boscarwen.*] He never knew a Debate here so long, without either ordering the thing, without a Question on the Debate, or deciding it by a Question upon the Debate.

[*Sir Thomas Clarges.*] We must have some Question stated. Moves that it may be this; "That the House being moved about the validity of the Prorogation, and some Debate arising thereupon, the Question may be, whether we shall proceed upon that Debate."

[*Mr Garroway.*] Knows the time when the House tacitly resolved a money Bill, and it being not sent up to the Lords, soon after changed their minds. We may be so used now, and would have security of a vote therefore, to enter into this Debate for our freedom.

[*Mr Secretary Williamson.*] Would not go into the Debate otherwise than we may well come out of it; and would, for himself, have *Sacheverell* go on.

[*Mr Vaughan.*] Declares that he thinks this Prorogation of above a year not to be against law; and would have *Sacheverell* go on.

[*Sir Thomas Littleton.*] As to the Lords judicial proceedings, Prorogation, and Adjournment, is the same thing. Persons are anew summoned in an Adjournment, that have causes depending before them. As for the dis-

solution

solution of this Parliament, by this long Prorogation, no man has it so much as in his thoughts. The matter is only for the different effects of Prorogation and Adjournment, wrapped up in ambiguous terms. Thus gentlemen are not secured by your vote, and that is had.

Mr *Garroway*.] Is sorry that *Vaughan* and others will only have a vote for *Sacheverell* to proceed in the Debate. Pray then let every man have a Committee appointed to determine what every gentleman has to say, and then you may order it as you please.

Sir *William Coventry*.] One man may say, that we meet by an Adjournment, and another not; no man can see what all the House can see; and it may be, it may prove neither one, nor the other, but dissolution, when 'tis examined. He has heard say, that formerly there was some suspicion of the cieling above the House falling down, and all the House ran out of doors. Was it then prorogued, adjourned, or dissolved? Upon that the House was judge, and he desires only a fair Debate upon the thing.

Mr *Sawyer*.] There is no parallel reason in this with what *Coventry* alleges of "the falling of the cieling." What necessity is here of this Debate? There was in that accident.

Sir *Thomas Lee*.] Would have the Question put, whether leave shall be now given to go on with the Debate of the Prorogation; and that was the first Question.

Lord *Cavendish*.] One ill effect of this long Prorogation is, that you, Mr Speaker, have forgot what you ought to do, in your place, in stating the Question; which is not "for the naming of Committees," but the general Question "whether we shall proceed upon the Debate of the Prorogation, or not."

Sir *Thomas Meres*.] He has told you that the Prorogation is against two laws, and another gentleman has entered into the Debate. Having named it, you, Mr Speaker, once stated it, "whether we should go on, upon the Debate of the validity of the Prorogation." The Question is, "whether we shall proceed"—Now
you

you are gone from that foreign matter of "naming Committees", you may as well go upon the Bill first read—But the case is now changed, and very much changed, upon the Speaker's changing the Question. He is not for Apocrypha, or unwritten tradition, of leave to go on, without a Question. He is for Scripture, and would have the matter written—And now you give us quite another Question "of naming Committees." He commended the Speaker for stating the first Question, and he received his commendation, and admitted it; and he never commended the Speaker without cause—You, Mr Speaker, having changed the first Question, he fears another change, therefore he is for the Question.

The Speaker.] That he may not forfeit the commendations of *Meres*, he will state the matter, &c.

Sir *Thomas Lee*.] One tells you, "that yesterday the Peers debated this new matter, and resolved, and some of them were committed to the *Tower* for that Debate." (Would be glad to be mistaken in the matter.) But 'tis a good caution for our Members to be assured of freedom of Debate. Should that fall out, he fears that *Sawyer* will not make the Prorogation so good as he hopes he will. No man has waved or doubted his right of Debate. But would have it cleared what negative, or affirmative, can be given, before the matter of Prorogation be resolved.

Sir *Charles Harbord*.] Will not say that the Prorogation was convenient, but thinks it legal. He could have wished that no Question had been made of it, but since it is, would expect a resolution, since 'tis thought necessary to debate it here. There is no Question, whether by an Order, this Debate shall go on for better security. Put what question you will propose, 'twill come to the same consequence, affirmative, or negative.

Mr Sec. *Coventry*.] Is sorry that any man should outgo him in his honour and duty to the House, &c.

Sir *Thomas Littleton*.] *Vaughan* moved this of naming Committees, as an expedient. But 'twas not the first

first Question proposed—Asks the Speaker, upon what account the first Bill was withdrawn, but upon this dispute?

Sir Richard Temple.] The Bill was withdrawn in consideration of this Debate. He moved for Committees to be settled, the first day we met; and gentlemen would not, because of precluding the Debate.

Sir Thomas Lee.] The Lords were committed for saying “the Prorogation was illegal,” and we have reason to apprehend it.

Sir William Coventry.] You are reduced now to what Question shall be put. He'll remind you, that 'twas the general intention, that naming of Committees, and reading Bills, should be postponed to this Debate. No other Question is sufficient, or can bring us to our end, but that of the Prorogation, &c. If you lay aside the Debate of the validity of the Prorogation, and go on to reading Bills, and naming Committees, if any man upon that will enter into the validity of the Prorogation, you are precluded. But an avowed Question is, that the validity of the Prorogation may be debated. If we have any Question short of that, we are not at all safe.

Sir Winston Churchill.] Thinks himself not so vain as to be able to satisfy any other gentleman, by what he shall say in this matter. 'Tis but his own reason only. He hears from gentlemen, whose integrity he has as little reason to suspect, as their understanding, that they are possessed with the same fear others are, and proffer this Question as a security to them, not to be ensnared in the debate. If then it be so, we ought to be cautious how we give it. For 'tis a kind of engagement to steer by—What shall be the result of this Debate? The law respects inconveniences before mischiefs, should it so fall out that the matter is too high for this place—But there is no doubt of freedom of Debate, which is our birth right, but not freedom of speech. Suppose the Question pass, that 'tis a good Prorogation, and gentlemen are over voted, but not
over

over reasoned, and they think they cannot act as a Parliament, and so withdraw—(He has seen a great part of the House go out upon the miscarriage in a vote, and thereupon the odium has been laid upon those that staid in, and they have had the blame of he dares not say what.) And they should go away home—Who must bear the burden of that? In this we are not judges of the King's prerogative, and we know not what exceptions may be taken—Suppose the King lay up some of our Members for meddling with his prerogative—Then how far are we engaged to justify our Members in what they say? Wishes it were debated.

Sir Henry Ford.] He did not call *Churchill* down—But because the King's father did so in 1641—Would have no such suppositions.

Sir Eliab Harvey.] If the Question be, whether the Committees shall be named, he cannot give an account how he gives his vote. If we vote that Committees go on, where they left off, we agree it a good Adjournment—He is not satisfied which it is, but is satisfied that 'tis one of these, Adjournment, or Prorogation.

Sir William Coventry.] We have been debating two Questions, naming of Committees, or whether we shall debate the validity of the Prorogation. If it pass in the negative for naming Committees, then the next Question must be of the validity of the Prorogation; if that be so, he is ready for the Question.

Mr Swynfin.] He never saw Questions kept off so before in this manner, &c.

Sir William Coventry.] The House lays claim to two Questions; so we may have them both in order—Let the previous Question be put.

Sir Thomas Lee.] In 1640, the method of the Journals was altered, when they would obscure what he hopes will never again be said here. If all (as formerly) was entered into the Journals that was said upon Debate to day, then gentlemen would not be misrepresented,

sented, and these apprehensions that we have upon us might be spared.

Sir *William Coventry*.] He thinks this business now much more weighty then he at first apprehended it, because it sticks so much upon the Speaker's hands in stating it. We go to look for our security in this Debate, and you tell us 'tis not to be found. We would have it *in scriptis*, that it may be found upon occasion. Now the matter is changed since yesterday. Now gentlemen are doubtful of their security, from something without doors, (from the Lords House) which prompts them the more to it. We cannot debate it without an Order, not only under the security of transitory words, which we forget who says—And according to Order we desire it. But he is so contented to come to a resolution, that he will rather submit to any Question, so that the rest of the Questions are not thereby secluded: And so we put out to sea again. 'Tis a right that ought not to be denied us, that, after the previous Question is past, then that Question of our security in the Debate.

The Speaker.] The first Question is the previous Question, "whether the House will proceed to naming of Committees;" and the second Question, *he said*, he knew not.

Mr *Hampden*.] The Speaker himself had stated it upon the motion of Mr *Williams*, who would have put in the words "validity of the Prorogation."

The previous Question being put was carried [193 to 142.]
So the House proceeded to name their Grand Committees.

Monday, February 19.

The Bill for regulating Elections, &c. brought in by Sir *George Reeves*, February the 15th, was read a second time.

[Debate.]

Mr *Powle*.] This Bill alters the constitution of the House, and therefore is to be debated in a Committee of the whole House. The penalties are strange in it, and extraordinary.

Mr

Mr *Sacheverell*.] This Bill makes the Sheriff judge of Elections, so as to return whom he pleases. The person who stands not having the liberty to make use of his own clerks to take the poll.

Sir *Charles Harbord*.] This Bill, instead of mending the matter, turns us into slavery, so that no man can know when he is safe.

Sir *Thomas Meres*.] Wishes that this Bill, or something of this nature, may pass. The last Session there was read a clause in a paper against this excessive drinking at Elections, and the Committee of Elections approved of it. But we were prorogued, and nothing came of it. Would have it read again, to be formed by the Committee. The Lords expect their juries in a Bill for their Tryals, and fears not to pass this Bill with power to examine our witnesses upon oath. Till such a Bill do pass, we have extraordinary trouble at the Committee of Elections. Twenty Elections are now depending, and he fears there will be thirty more vacant; twenty will be disputable. This evidence of drinking fills most of his papers at that Committee, as he is reporter, since he was in that service. The thing looks not well abroad, and drinking men throw away a child's portion at an Election, in the charge; and labourers, and good handicrafts-men, ruin their wives and children by ill habits of drinking at those Elections. Would read the last Vote of the Committee of Elections.

It was read accordingly, which see in this Volume page 4.

Mr *Williams*.] The abuse is so fatal, and so notorious at Elections, that to remedy it there is no method so fair as a law. Would have the clause mentioned sent to the Committee.

Col. *Birch*.] This paper comes now most seasonably in thirty vacant Elections, and, he thinks, the nation would have great satisfaction by printing and publishing it. Else, if we stay for a Bill, all places will be filled up
before

before the Bill can pass. You are still masters of Elections, and may judge them accordingly. Corporations are ruined by this debauchery, and so ill habits have been got, not else to be remedied. We must either do it now, or never. Therefore would print it,

Lord *Obrien.*] Would have no man surprized by the paper, &c. Would not have any man bound by it, but from the time he receives it before the Election.

Sir *Thomas Meres.*] This instruction will not at all reach the Elections now vacant, only that it shall be hereafter so; and so there will be no surprize.

Sir *Thomas Clarges.*] You are masters of your own Order. But 'tis hard that it should reach these Elections in being. But 'twill be binding for the future, because 'tis in your power to judge, by that Order.

Mr *Sacheverell.*] Would now fill the blanks of the sum which is not to be exceeded in entertainment before the Election, in this clause. Sometimes (he has observed) drinking has been passed over at the Committee, and sometimes not. Therefore would fill up the blanks with "five pounds."

Sir *John Bramstone.*] *Essex* is a great County, and the Freeholders there come a great way to the Election. Would have that considered in the Bill, that they may not be debarred reasonable refreshment.

Sir *Thomas Littleton.*] The thing is done presently, therefore would not have the House spend a whole day in it. Moves therefore, that, at the Committee, all that come may have voices, which is, in effect, a Committee of the whole House.

Col. *Birch.*] Is for referring it to the Committee, but if we lose the season of doing it, we lose the thing. Would therefore have it to-morrow the first thing at the Committee, and have it reported.

It was committed for *Wednesday.*

Heads of the Bill for recalling his Majesty's subjects in the *French service* [which was read the first time.]

“That service is against the interest of the Kingdom—The person remaining in that service after time shall not be capable of being an executor, nor have the benefit of any settlement of lands, and the next of kin shall enter—If he return not by a day, he shall be proceeded against as a felon, in the *King's Bench*, or in the County where he shall be apprehended, and shall be tried as a felon—The King shall have no power to pardon him, but by Act of Parliament, and, by name particularly inserted in that Act, with a saving of dower to his wife. And the Act to continue for one year.”

Sir Thomas Meres.] There is nothing more useful for the nation, than that the person so offending should be a felon. He started at it at first, but there is the same clause in the last Bill the last Session. Now there is not time to speak to the particulars of the Bill—It was our interest once to apprehend the growing greatness of *Spain*, as 'tis now of *France*. Moves that the Bill may have a second reading on *Wednesday* next.

It was ordered accordingly.

Col. Birch.] Presents a Petition, of *Mr Bernard Howard* and *Mr Edward Howard*, wherein they intreat the House to consider their condition. *Thomas Duke of Norfolk* [their brother] is detained at *Padua*—Remembers the person by this token; that we formerly had it in consideration, that he was carried from the North to the South to cure him of lunacy—Desires that the Petition may be read.

Mr Garroway.] Would have the Petitioners called in to see whether they will own the Petition.

They were called in and owned the Petition, subscribed *Bernard Howard*, *Edward Howard*, and *Alexander Mackdonnell**, who married their sister.

The Petition was then read, setting forth “That the Duke of *Norfolk* is confined to *Padua* by the Earl of *Norwich*, (his next brother,) and the trustees for the Duke. In 1653, he was found a lunatic with lucid intervals. The Earl of *Norwich*, Earl Marshal, is his next heir, who is barred by law from his guardianship. He has had the custody of his person and estate, and the Duke is detained in a hot country, in *Italy*—Waste is

* Grandson to the Earl of *Antrim*,

made of his woods, and conveyances of his estate have been made by him, and fines levied—The Earl wishes the Duke's death—A great prejudice to the family!—The Earl is tenant in tail, and he may settle the lands of the Earldom upon such issue as he pleases, to the detriment of his lawful issue by the Lady *Anne*, sister to the Marquess of *Worcester*. Their sister, Lady *Elizabeth Mackdonnell's* estate determines upon the Duke's death. The rest of the Petitioners are not concerned, but only to prevent waste and destruction of the estate. From such guardians they hope not for any redress, but by the desire of the House to the King for remedy. They pray that the House will be a means to prevail with his Majesty, that the custody of the person of the Duke may be put into such hands of the family, as may give security for his safety and estate, and that the person of the Duke may be brought over."

[Debate.]

Col. *Birch*.] When he received and presented this Petition, he thought it reasonable to take this Duke from a place rather able to make him mad, than recover him. The reason of *England*, and (he thinks) the law too, is, that the guardian who has the custody of the person, should not be the nearest relation expectant. 'Twas thought reasonable here, three years since, when this business was moved here before, and moves it now, that he may be in the hands of persons, whose interest it is to preserve him.

Mr *Onslow*.] If the Lord Marshal were heard, he would well acquit himself of this charge, as he has already done to the King, and Lords of the Council. The Marquess of *Worcester* and himself (*Onslow*) are guardians to the Duke, and 'tis held by good opinions, that 'tis to hazard his life to remove him from the place where he is. There are several brothers concerned before *Bernard Howard*, but Lady *Elizabeth Mackdonnell* being persuaded that great matters may be done for her, a suit has been in law, and her share of the estate is good for her life, so that her husband may not have it after her decease. And he will undertake, that, if she will give the Lord Marshal a good acquittance for the money she has already received, their annuities shall be paid. The Trustees are ready to give an account,

when it shall be called for—The Duke lives in a palace at *Padua*, and he is well maintained, and in Protestant hands.

Sir *William Coventry*.] Is sorry for this difference in a noble family. The House, he believes, will not trouble themselves with law suits. He has heard that by inquisition he has been found a lunatic; but the Duke was abroad then, and he is now kept in a country not very proper for his distemper. He was placed, 'tis said, by his grandfather there, but that was in the time of the troubles, and all that was dear to that family they carried away beyond sea with them. The Petition informs you "that fines have been levied, since he was found a lunatic, and said to be against law." But he has sat here when fines have been questioned and made void, (*Bodvill's case*) and nothing less than a Parliament could undo it. If that appears to be so, it has not been well done—But now this Duke's being in the custody of those who have the Lord Marshal's directions, (the heir expectant) is the case. He apprehends no danger of that in a man of his honour; but when things of this nature come before you, he beseeches you to countenance the law of *England*, and, for the sake of others, see how far the particulars of the Petition can be made out. If the Duke be under a guardian, 'tis not against law, but for "levying of the fines" 'tis fit to enquire into, and whether Lady *Elizabeth Mackdonnell's* estate depends upon the Duke's life—And she implores your assistance, for fear of being out of the reach of the law. He never yet heard that the Duke had that imbecillity of body, as not to endure a voyage, but, if it appears to you impossible to bring him over without danger, then consider it. But put it in a way of examination and enquiry, and, when that shall be stated, then you are ripe for judgment.

Mr *Onslow*.] As for the fines; all he knows of the Duke's, levied as a lunatic, were destroyed, and what the petitioners claim were under these fines.

Mr

Mr Powle.] Finds that the Duke has been a lunatic ever since the 30th of July 1653. Several fines since that were levied, as in *Hilary* term 1653, *Trinity* term 1654, *Easter* 1654. There is sure some great defect, if fines pass by infants, minors, and persons *non sanæ mentis*. There ought to be the greatest care of this imaginable. How are "wastes complained of" in the Petition? If this Lord Marshal's children fail, the next brothers are the heirs. He knows both the guardians, but believes them only titular, and nothing of their consent has been in these things. But since it is before you, would have the matter enquired into, and the true state of it represented to you.

Mr Garroway.] 'Tis a strange thing that five fines should have been levied, and the trustee, *Onslow*, know nothing of it. Would appoint a Committee to enquire into the matter of fact.

Mr Onslow.] All these fines were levied before he was guardian to the Duke.

It was ordered to be referred to a Committee.

Mr Sacheverell brought in a Bill against illegal exaction of money, &c. making it high treason, &c.

[It was read a first, and ordered to be read a second time.]

Leave was asked by Mr Wharton to go to the Lords for permission to go to see his father [Lord Wharton] prisoner in the Tower.

Lord Cavendish.] It is against our Privilege to be debarred access to those Lords; and there is a gentleman (describing myself *) who has business of consequence with one of these Lords committed to the Tower.

Sir Thomas Clarges.] Hears these Lords are *in arcta custodia*. He has heard of a Peer in custody in the Tower, and his wife *intra quatuor maria*, and brought to bed after her husband had been a year in custody. Though the Lord was kept a close prisoner, the law judged the child legitimate, because no *arcta custodia* can exclude a wife from her husband.

* Mr Grey, the Compiler.

The Speaker.] If *Clarges* speaks of the Lords commitment, 'tis not now before us. We know not the warrants, nor cause of their commitment, and by this Debate we may begin a new breach with the Lords.

Sir *Thomas Lee*.] Would have no Question upon our books, whether Mr *Wharton* shall have leave, or not, &c. to see his father. He believes that no body will make scruple of asking the King leave, or the Lords; but would have nothing of it upon our books.

Mr Secretary *Coventry*.] He speaks for the Lords sake in the *Tower*. We know not what prejudice may arise to the Lords, by such accesses as these.

It went off, without a Question.

The House having been informed of Sir *Thomas Strickland's* conviction of recusancy *, and been moved for a writ to be issued out to chuse a Knight for *Westmorland*, in his stead, Ordered the record of his conviction to be brought in by the Clerk of the Crown: And

The Speaker informed the House.] That, by the record, it appears that he stood convicted of recusancy, according to the form of the Statute, but whether he be the same Sir *Thomas Strickland*, Member of the House, appears not. He is named in the record "Sir *Thomas Strickland*, of *Bradford*, in the County of *York*, Knight."

Sir *William Coventry*.] He has known this gentleman many years before he sat here. For common respect; especially for one who has sat so long amongst us, would give him some time, though not by way of summons. It may else possibly be an inconvenience to his fortune; but if he come not, in some reasonable time, to give an account of himself, would send out a new writ, to chuse another Member in his stead; but would do it without summons to him.

Mr *Pococke*.] We cannot be too careful, when we are about to expell a Member, especially when we remember that a minor part has once expelled a major in the Long Parliament. This gentleman may be con-

* This information was given to the House on the 16th. See the Journal
victed,

victed, and possibly know nothing of it. As for summoning of him, and that attested here at the Bar, there can be no inconvenience; for he may absent himself, and you may take it *pro confesso*; and go solemnly to summoning him, and, if he appear not, then send a new writ to elect a Member in his stead.

Sir *Thomas Meres*.] 'Tis properly no "summons," but "notice," to give the thing a more easy word.

Mr *Whorwood*.] Is as tender as any man for this gentleman, but thinks such scruples strange. He is fortunate that he has escaped this enquiry so long, and sat here without expulsion—Would therefore have a summons plainly sent to him, and if thereupon he comes not, he wishes him gone.

Sir *John Birkenhead*.] He (*Strickland*) has taken the Oath of Allegiance and Supremacy here, at his first admission, and the former he will take, and the Lords are not obliged to the other.

Sir *Thomas Lee*.] 'Tis strange that *Birkenhead* should proffer you any thing against law. Both Oaths are to be taken here.

The Speaker was ordered to give Sir *Thomas Strickland* notice by letter accordingly.

Tuesday, February 20.

The King's Speech was read.

[*Debate.*]

Mr *Neale*.] In such things as are grateful both to King and people, our fault will be great, if we neglect to do them. The King's Speech has several parts. The King tells us, "That we may be secure of Religion, and Property, and he will gratify us with good laws for better security." What more can be expected from a most gracious King? Since we have his royal word for it, we are bound in duty, before we exact any farther promise from him, to gratify his Majesty, in avoiding all differences with the Lords; and hopes we shall.

olutely necessary for the safety of the Kingdom, whilst our neighbours are stronger in shipping than we are, if we measure strength; and he would provide at least two or three years store. The last Session, the twenty ships you voted were valued at 300,000*l.* a competent sum, 'twas then believed, and we can do no otherwise now than give 100,000*l.* stores and cordage considered. He is altogether unwilling to give more than is necessary; but willing to do the work presently, and moves for 600,000*l.* for a present Supply to the King for building of Ships.

Sir Thomas Lee.] Speaks to Order. He will put you in mind of the course and method of Parliament. *Neale* has named a sum to grant the King, which is irregularly done. You, by Order, must appoint a day for the Committee of the whole House to consider the King's Speech, which regularly cannot be to day—If you can, defer your resolution, for the King and Kingdom's satisfaction, that we may go into the Country. He speaks to method only. He would not lose the method of Parliament.

Sir William Drake.] Seconds the motion for 600,000*l.*

Sir Thomas Littleton.] You cannot enter into a Grand Committee to day. You must, by Order, appoint another day.

Sir Joseph Tredenham.] This motion is not so irregular as 'tis made to be. He differs from those who say "that no sum to be granted, &c. ought to be mentioned in the House, but in a Grand Committee." We have had reflections upon the power of *France* increased, and that of *Spain* decreased, and our alliances broken. Thinks all these things of power sufficient to persuade us, for our security, to assist the King in strengthening himself; and moves for 600,000*l.*

Mr Waller.] He has known money given in the House without going into a Grand Committee. The strengthening the fleet is mentioned in two places of the King's Speech, and in two places of the Lord Chancellor's. He would have a fleet; but would have the strength

Strength of it to be measured by comparison with our neighbours. They increase their ships, and we are at a stand. We have formerly sent to our neighbours, when we were uppermost, to build no more ships. They may do so by us. Now he would provide against dangers nearest us. The Chancellor, in his Speech, says, "we can have no peace without unity at home, and let us take heed of jealousies and fears." But the Chancellor finds us sick, and bids us be well. He tells us no causes of them, and no remedies for them. What reason the Chancellor has for it he knows not, but the greatest he knows is, that public money is not employed to public uses—Would make all the haste in giving the King Ships, without the ceremony of going into a Grand Committee: He moves that the Bill for the Customs, given for the maintenance of the Navy, may be employed for building Ships. Your honour is concerned in it, and the safety of the nation; and moves for that Bill brought in the last Session to be revived.

Mr *Leveson Gower*.] The first thing recommended to us in the King's Speech is Religion, but that without a Navy is not safe. He thinks the motion good below, but would have 200,000 *l.* more; it is the least we can do, under the great difficulties we are in. The motion is reasonable, and no man is a good patriot, a good subject, or good Christian, that will be against it. He does in this as he would be done by.

Mr *Sacheverell*.] Moves to Order. Proffers that the Orders may be read, to see whether we can go into a Debate, against a regular express Order.

Sir *Thomas Meres*.] Wonders where we are when we are against this ancient Order. He hopes no man will produce things done ten years ago—All was paid off, and all was clear, but 600,000 *l.* debt a gentleman then told you of. Says another gentleman, "then give 1,200,000 *l.*" with his hat on, irregularly. This way of motion by those gentlemen is bidding at gleek. In those days when this Order was broken, money was plentiful,

plentiful, and the revenue was less, and much of that money was for the King to build his Houses, and other occasions, when he was but lately restored—But this is bidding at gleek. Mr *Prynne* was once in the Chair, for that purpose, and reported the forms and methods our ancestors went by anciently, and by precedents, constantly, “grievances” were considered before “giving of money.” He sees it has been a rule, that no sooner “money” has been got, but “grievances” were set aside.

Mr *Swynfin*.] 'Tis a constant Order, that when the gentleman (*Sacheverell*) desires an Order may be read, (which is a continuation of what he intends to speak, and apply himself to; especially when in order to the matter in Debate) when 'tis read, any man may speak against it; but it must be read. A gentleman cannot be denied the reading an Order, when he desires it to be read, for the better making out his argument.

Sir *George Downing*.] This is a fundamental Order, that when any man stands up to speak, the Clerk cannot read an Order out of the Journal.

Sir *William Coventry*.] If *Tredenham* speaks to Orders, he would then be heard.

The Order was read, viz. “A charge upon the people being moved for in the House, 'twas adjourned to another day, for the Committee of the whole House to consider of it, and not presently to be entered upon, but a day was appointed for it, and referred to the Committee.”

Sir *Joseph Tredenham*.] He stood up in justification of the movers of the sum, and so they and he are both at your mercy. It has been the practice formerly, not to go by these wary steps. This morning he looked into the Journal, and finds a subsidy voluntarily embraced in the House, 1 *Elizabeth*, and a subsidy unasked by the Queen, *April*, 1571. *Rolle* and *Newdigate*, enquirers after divers other motions of Ecclesiastical matters, and concerning officers embezzling money, were appointed Commissioners for drawing a Bill
(which

(which was granted) for the subsidy, and all the Privy Counsellors of the House were of the Committee.

Mr *Williams.*] *Newdigate* then represented several Grievances, and offered a Supply as an accommodation, and therefore 'twas by way of commutation, and both the Grievances, and the Subsidy were referred to Commissioners at the same time.

Sir *Thomas Meres.*] In order to this matter, you must search higher in the Journal. But in this, and all other matters, about Orders, there was a Report made, when Mr *Prynne* was in the Chair. No less than ten or twelve Journals were brought to the Committee, in the Speaker's Chamber, and you will not find any precedent, but for all the money the people gave there was a retribution—It looks as if we were sent here to make pacts. Aids and redress of Grievances ever went together. Be this what it will, let this Order be revived. Your Clerk has not entered into the Journal the grounds upon which your vote was made, upon that Report. But, he believes, there are six instances for one to the contrary.

Sir *Charles Harbord.*] He comes not here to do the *French King's* business—But would not have an Order pressed too hard for our conservation.

The Speaker.] This very Order was gone against the next Session after it was made.

Sir *Thomas Lee.*] That Session the Order was made in, it was not read—'Twas three years after it was read, and it was done upon precedents and view of the Journals. No man "presses," but to go on upon this business to-morrow—If building of Ships be of such necessity that we must break Order for it, he cannot think keeping that Order can hinder it. The last Session, we did not proceed so, and that method has been kept ever since you, Mr Speaker, came into the Chair.

Mr Secretary *Williamson.*] In Queen *Elizabeth's* time 'twas not taken to be irregular, and 'tis plain that this last Order that seems to propose a contrary method, has been set aside, as not necessary, (as the Speaker said.)

said.) The thing is entirely at the pleasure of the House, to keep that Order, or not. He moves that you may consider the whole motion, as *Neale* made it, for a Supply for his Majesty, and the *quantum* according to that motion.

The Speaker reads the Order. "A motion being made for a Supply for the King, and a motion, likewise for a Grand Committee to consider of it, according to Order, 1669. Resolved in the affirmative against that order."

Sir *Thomas Meres*.] 'Twas an extraordinary time, when this Order was not kept. But the next time 'twas exactly obeyed. Lord Chief Justice *Vaughan* then moved for a royal Navy, when the war was ended, and we gave money for it; but had no Navy about the year 1668.

Mr Secretary *Coventry*.] Since this Order was made, money was given in another method. The party that moved for it then was a man of great honour, and much for the liberty of his country. Yesterday there was a Bill read, (he believes that the intention of it was good) for recalling the troops out of *France*—Long since 'twas thought the balance was unequal, and would have you have the honour of making it equal—Would not have two or three high words to do it; and 'tis but the recall of 1200 men, whereas the *French* have eighty battallions of foot, 800 in a battallion. They will have 40,000 men in a body, this campaign—Such a neighbour is considerable when so nigh us—But would not render the King contemptible, by a word, or a vote, to greaten the *French* King. After a vote of standing by your King, if you pass no vote to make him considerable, you put him into great streights by this Bill of recalling these men out of *France*, and yet give him no strength by a Bill of Supply.

Mr *Vaughan*.] When we contend for money, it puts him in mind of country fellows going to foot-ball play, or any such country sport. They get up early, though possibly all the sport may end in breaking their shins,

shins, and tearing their cloaths. One gentleman moves for one sum, another for another—But no man lays out his money, before he has contrived a model for his house. Therefore would resolve into a Grand Committee, and then 'tis proper to name a sum. These early motions are as if these movers were the only givers, and that others not so forward were the deniers. Therefore moves for a Grand Committee.

Sir *Thomas Meres*.] “*November 3, 1669, Resolved,* That the House go into a Grand Committee to consider of the motion for the King's supply,” and no sum was then named. There is nothing in that Bill that can give offence to the *French King*. 'Tis only that we have people there whom we want here, and no provocation is given to any Prince by it.

Sir *Henry Capel*.] Here is Order produced in opposition to Order. If it be the opinion of every man that we are strong enough, and unanimous enough, it is of more consequence than all the money we can give; but would not rise without some vote, nor without doing something in this business.

Mr *Powle*.] He sees we are pressed with great haste to give a Supply. He wonders at the arguments used for it. He hears urged, “the greatness of *France*, and apprehensions of her making a peace with *Holland*.” But would see who labours for that peace. We are told of “eighty battallions,” and, for ought he knows, twenty of them may be *English*. We are told now of “the necessity of this Supply,” and twelve months ago, we were told so. Would know how the King and the House are dealt with in it. You are told “that once the first thing named was Supply,” but 'twas contrary to Order. One great reason is, that formerly Supply was named, at a Grand Committee, and therefore it ought to be so now. Formerly, giving of subsidy was the last thing done in Parliament, and, in time of Popery, the Bill was solemnly offered at the Altar, at high mass, at the end of the Session. There is great reason for keeping this Order. If the King has no supply till Grievances
are

are redressed, 'tis a reason why we may hope for no Grievances in intermission of Parliament, and make the King willing to redress them, if there be no way to come to a Supply, till Grievances be redressed. If some fears be, whether a supply will tend to the greatening or lessening our great neighbour, it will make persons cautious how they give—Moves for a Grand Committee, as before.

Mr *Pepys*.] If that Supply be given in exchange of removal of Grievances, the consequence will be, that the King that gives the first Grievances, shall have no Supply. "Imminent dangers do grow daily," 'tis said. But who contributed to them? He can answer for himself. Dangers are particularly from the marine part—Therefore moves that you will not let this day pass without supplying the King, for removal of such dangers.

Sir *Robert Carr*.] Since the House seems to incline to go on to-morrow morning upon the Supply, understands not why we should spend more time in Debate. He therefore moves that to-morrow morning, at ten of the clock, the House may take into consideration the King's Supply.

Sir *Harbottle Grimstone*.] 'Tis dangerous to take away that liberty of Debate at a Grand Committee about Supply. To-morrow he shall agree to the consideration of his Majesty's Speech, not confinedly to any particular branch of it, but at large. There is great doubt concerning these precedents of giving "Supply" and "Grievances." He craves leave to speak to the one as well as to the other. He wishes he may have the skill and luck to hit the matter, and doubts both, and will try both. He is against giving either "Supply" or "Grievances" the preference. He is for going the old Parliamentary way, hand in hand. If Grievances lie dozing upon the table, after Supply is given, it may be we may stir and jog them, but to no effect. He knows his own thoughts, that *exitus acta probat*, and *finis coronat opus*—The result of this Parliament, will

will either put us into an ecstasy of joy, or put us into confusion; but he hopes all may be well at last. But people's purses will not be opened without redress of Grievances. He may say, that we have Grievances, and heart-aching ones too. We are lost in the thick mist of foreign counsels, and there is no ending in error. He thinks fit to be plain, but would have the Question to be this: "Whether we shall give money for ships, till our home-bred, in-bred grievances be redressed." Would have that to be the Question, to know other mens minds—We must strengthen peoples hearts, before we can lighten their purses, and if he knew a better way to propose, you should have it.

Sir John, Ernly.] No nation is without Grievances—But we are at peace—And no man's property is attacked. He moves for "to-morrow at ten of the clock to consider the King's Supply."

Sir Thomas Littleton.] He is for giving money for Ships, and enough, but for Ships only, and for no other purposes—This of recall of the *English* forces out of *France* is no manner of breach with *France*—Men going over to the *Dutch* service is not on the same foot, for they go not in violation of any treaty against any confederation. But that Papist officers should be recommended from this place, put that into the Bill, if you please. But we put no shock upon *France* by having our forces in *Holland*, by any treaty we have made with *France*—In giving money now, he would put it into the power of those who have been the authors of this counsel (of assisting *France*) to save the nation, and pray God avert the dangers of those counsels!

Sir William Coventry.] Moves to keep close to the Order mentioned. He is sensible how *France* grows great, and would have had that greatness stopped a year ago. You are not now upon giving money, but only upon method—Would therefore put the Question for "to-morrow morning to consider the matter of the King's Speech relating to Supply."

Mr

Mr *Garroway*.] He is no friend to King or kingdom, that would stifle the motion about Grievances, Let Supply and them go hand in hand, every other day, and you will have reasons, by that, for and against more or less Supply.

Sir *Thomas Meres*.] *Temple* put "Grievances and Money"—As to "Money" he would not have too much given, for fear of too many "Grievances"—As you have been already told, he would have *Thursday* for redress of those Grievances, and not to talk of them only.

Friday was voted for Grievances,

Wednesday, February 21.

In a Grand Committee [on the Supply.]

Mr *James Herbert*.] Moves to give the King 800,000*l.* Had we given money the last meeting, we had not been out gone by the *French* in building of ships now. And he seconds the motion for that sum made yesterday. (*Laughed at.*)

Sir *Francis Russel*.] Would have the Secretary of the Navy give you an account of the present state of the Navy. Till you know that, 'tis too early to move for any sum.

Mr *Leveson Gower*.] Has the King invaded any man's property, or shed any man's blood in vain? You need not be jealous of property and religion. It goes hard with the King to retrench his house, and the pensions, and he has parted with his revenue to pay the bankers debt. Moves therefore that we may supply the King with 600,000*l.* for building Ships.

Mr *Garroway*.] He hopes to come to a regular way of Debate, that we may come to some thing we may insist upon—*Gower* has told you "of the King's retrenchments." Would know whether a sum is demanded for building of ships only. If we give a sum, *actum est*—Would restrain the Debate, and then
he

he will tell you his thoughts. Till then we are not free to debate.

Sir *Thomas Littleton*.] If the Debate be restrained, then there is one way; if general, another way. Would have it clear, without implication.

Sir *John Morton*.] Would go step by step. Would know what to do, to give our voices frankly. It may be for ships, it may be for something more.

Mr *Mallet*.] Ship-money is a poison and canker, when raised against law; but when by Act of Parliament, an antidote.

Mr *Sacheverell*.] If we talk of money for any thing but ships, he is against it. But would know why we are now asked more money for ships than we were the last Session. He was never for a full Exchequer, since Lord *Arlington* was here, who told you "there was money sufficient in the Exchequer, and so no need of calling the Parliament." And when that last war was made, 'twas begun without advice of Parliament—*Arlington* then told you "that counsel was not secret enough—Counsels not warrantable in their privacy for Parliament, and then the Exchequer was full and no need of a Parliament"—He finds that the counsellors are not yet removed, and we have the same fears still. They then called the Parliament, because they could not be without it. The last Session, we had a Bill depending to call home the *English* forces out of *France*, and now we have it for an argument, to make haste with money for the fleet, because of the *French*, and yet they tell us that 450,000*l.* has been spent yearly upon the Navy. Are not the same Ministers still at Court, and are not new forces sent over since the last Session, notwithstanding our Bill? He shall never expect the Parliament will meet again if the Exchequer be full of money—How safely to lodge such a sum of money in those hands, who still manage the same counsels, he leaves it to you.

Sir *Thomas Meres*.] He fears we are not richer, but poorer, than we were—Rents fall since the last Session, No money in the country; all comes to *London*—The

King, by the excise, has twice the rents of our corn—And he will venture to show you that there is no need of giving now. There is no demonstration like proof or fact done—He told you the last Session, “They could live at *Whitehall* without your money;” and they have done so since, and may do so fourteen months more. But it seems ’twas much more easy to be without us; for we find faults, and see great spots—But to that he will speak another time. The Wine Act, and the additional excise, were granted to pay the King’s debts—(Would not have those Acts thought an additional revenue.) But still finds no debts are paid. He has by him the particulars of the King’s debts, given in by Sir *Robert Long*; 1,300,000 *l.* and these Acts were to pay these debts to the Bankers—And there was a subsidy granted, over and above. All which amounted to 2,400,000 *l.* for ships still, but none built, and these Acts are afterwards called in the King’s Speech “a revenue,” though they are not so entered in your books—The clause of transferring these debts was proffered, but laid aside. The intention of it was, that this money should go on to pay the King’s debts—This was afterwards by some called “a revenue.” But yet ships are not built, and debts not paid, since 1670. He esteems the revenue, besides these two Acts, to be between 1,100,000 *l.* and 1,200,000 *l.*—And after the Parliament was prorogued, the *Dutch* war was made, and the league with *France*, the Triple League broken. And the reason of all this was plain; they needed not the Parliament—The Exchequer was stopped, though sacredly promised to be opened again—The Declaration was put out, by which thirty laws were suspended at one breakfast, and cut off. And it may be as many at another time—And people were thereby so let loose in Religion as never to be reclaimed, and it was bought off with 700,000 *l.*—But still they have money in the Treasury—And therefore no Parliament. Then the *Dutch* war was made, and we were called—But did ever any age know such a war made without

without advice of Parliament? 'Twas not prudent to make such a war, as an equal neighbour to be maintained with our money—If we do prudently, 'twill be a mighty mischief to give an additional revenue. Your Parliament by it is of no effect nor use; and he shall never expect good, till this additional revenue goes off. It is so great they will need no Parliament, and you will be turned off at least six years. 'Tis money that makes a Parliament considerable, and nothing else. Now for the sum, show him the good of giving it, and he will give. But with locks and bolts—For will never trust “that steward (as a gentleman [*Titus*] said the last Session,) who has once cheated him.”

Mr Secretary *Coventry*.] Wonders you should be told “that the Declaration was bought off with 700,000*l*.” He never knew that the King sold his laws, to buy merchandize, and pay wages with the same money. But 'tis said, “why should we be asked more money now than the last Session?” 'Tis because the *French* have built twenty ships more since last year—And since *Whitehall* has been put to such streights, that it has been near dying. And told a story “about starving a Horse.”

Sir *Thomas Lee*.] Enquire, if the horse be almost starved, what great gifts have been given since we met last, and you will find that the starving case is not much in the way—Whether the Triple League be broken, or not, he knows not how to make it whole—The effect of that buying off the Declaration for 700,000*l*. was that we were but restored to our own—Would know what number of ships we have for our safety, to know the better what to do—'Tis every man's interest that the King should defend us—Now, whether by comparative interest, *France* grows richer, and we poorer—If by raising more money in time of peace than war, we be so disabled, when there is a real occasion by war, consider it.

Mr *Pepys*.] He should be an ill servant both to the King and you, if he should not tell you all the truth.

Finds it industriously spread that great sums have been given the King—That's a great mistake—From the year 1670 there have been built from the stocks, six ships, great and small. His head shall be at stake for every syllable he shall say in matter of fact. He will go backward, as other gentlemen have done. The King's expending on the Navy has been much greater than we think—Take this retrospect. The condition the King found the Navy in, at his Restoration, was, in number and size, beyond any before. 151 sail the King took possession of, but should be sorry it were now in so foul a pickle. The debt then upon the Navy was 780,000*l.* he has Col. *Birch's* hand for it; 350,000*l.* due for seamens wages, for the ships that were abroad; some had been 50, 40, 30, weeks at *Cadiz*—which had been at *Jamaica*. For wear and tear, for four years continued, they were unpaid. For stores they had occasion, for fitting forth *Algiers* war, which is now made but a little matter. After a fresh debt for stores in the Admiralty-Office, he declares there were not then to be had commanding stores for six ships more—There were then seventeen ships, and upon inquiry they were unserviceable and unworthy repair. Sixteen of them were rebuilt from the bottom, and thirty-four rebuilt from the waist upwards, and this is the picture of the fleet, as the King found it. Two parts of this debt upon the Navy were taken care of by this House, as wages and debts for stores, but not one farthing given upon the head of "wear and tear;" and in that condition the fleet was. To set it in some order, all was disbursed out of the King's purse. As idle and useless as the care of the officers of the Navy has been represented, yet the fleet was able to meet the *Dutch* in 1664, 1666, 1667, and 'twas followed with breaches with *Algiers*, and *Sallee* too. From the King's coming to 1664, not one year was entirely free from war. Yet the King has built more ships from the stocks, than all his predecessors from the conquest; ninety, great and small, from the year 1660 to this day. As to the ill disposal of money alleged, in the
year

year 1670, he answers, fifty ships were launched in 1667, and there was not one month that the docks in the yards were empty, without either ships built, or repaired. If you ask then, what condition the Navy is now in, at this day? He answers, the King has not 157 ships. The whole number is but 150. But if the fleet was the strongest that was known before in 1660, yet at this day 'tis better than then; more in tonnage, men, and guns. 'Tis indeed out of repair, but yet not so low as when the King came in. In short, you may judge of the condition of the fleet, by the sum that will enable the whole to go to sea, with magazines for recruits; 300,000 *l.* for this. If the King's occasions would have permitted him, in 1668, to have spared 200,000 *l.* for the Navy, it would not have been in this condition now—The King has not spent this year on the Navy less than 400,000 *l.* He will give it under his hand, that that hand may be witness against his head, if it be not so. Take peace alone, without war, and this is the charge—And could the King's occasions honourably have drawn him into it, he would have spent more. It cost the King to repair what he may call yours 400,000 *l.* What then do you so much deplore? That we have not been so anxious as to equality of ships with our neighbours? You must either be above or under balance; you are never equal with them. But how then this disproportion under the *Dutch* and *French*? It cannot be imputed to the King, nor his time; you must go more early than the King's return. In 1652, and 1653, we hired above 90 merchants ships. The *Dutch* never fought us, generally speaking, under that number. 'Twas the great old ships that did the service against the *Dutch*, built by our royal master's father, *Charles I.* Old *Trump* left it as his dying lesson to the States, always to have ready 36 capital ships; and for want of that they have overtaken us. As for the *French* fleet, it is not to be wondered at; for besides the great odds of that King's revenue, there has been no interrup-

tion of his growth at sea—And 'tis to be wondered that his ministers saw it not sooner upon *England*, that has scarce had one entire peaceable year, since the King's Restoration: The King found the nation in a war with *Spain*, he fought, and he built ships again, as he lost them; and 'tis a wonder, our losses considered, that he has not more overtaken us in his building—And yet more ships have been built in these sixteen years of the King's return, than in eighteen of rebellion: In his conscience he thinks this to be truth, and therefore says it; though it has gone through as many difficulties as any other management in any age whatsoever. By the King's personal application to building ships, skill has been advanced, beyond any memory of man, and, perhaps, beyond any improvement. More docks have been built—No age, at one time, had so many encouragements for navigation. Has any time produced better encouragements for building ships, and provisions for flag officers? Most august is the King's seminary for seamen. From a little hospital, no charitable foundation is endowed like it: But hears it said, "why do you ask more for the Navy than in the last Session?" He would be tender of straining the number we want, but cannot depart from thirty ships more. The *French* and *Dutch* are daily building. The number is not new, and "that our neighbours will be yet more than we," he does not think, because we were over swayed before, rather by the length of the Debate than by reasons, and not one proof was made last Session, of his over-measuring either tons, or rates. He closes, and moves for 30 ships, the same number he formerly proposed.

Col. Birch.] *Pepys's* opportunities of knowing are as good as his abilities. He said "he had *Birch's* hand to something;" he knows not what it was till he fees it. He remembers not one penny unpaid, when the King took the fleet into his charge—Look in the years 1653, 1654, and 1657; for then he came to understand something of the Navy—But *Pepys* has not gone
by

by his measures. In those days, the measures for wear and tear, and all other things relating to the Navy, were managed completely at 4*l.* a head, and 3*l.* 15*s.* and looked upon as a lavish allowance then—If *Pepys* will tell you what number of ships were employed for summer-guard, and what for winter-guard, he can tell how to judge of the charge; but not till then. That is the way to see whether there has been good, or bad husbandry. In 1653, when money was called for (in a Convention) for the navy security, 'twas then offered to set the fleet out, in war, as well as in peace, and warranted for 4*l.* a head, and he himself would have offered a good price, to have been the manager of it, at that rate. In the *Dutch* war, in 1653, the Navy had not the strength it has now; but they fought yard-arm and yard-arm, which is not the fashion now. Though they had great ships, yet mettled men did it. But the thing is now, what is to be done? He wishes the King may have his delight in the fleet, fully to his satisfaction; especially when 'tis so much for the safety of the Kingdom—So many ships, he believes, are built as you have been told, but whether so much money has been spent upon them as you have been told, that he must farther examine—*Pepys* tells you, “he asks no more than thirty ships now”—He would have neither the *French* nor the *Dutch* named, but would do the business quietly. What dangers we are in he knows not, but he has observed that when the officers are merry, the soldiers are not in danger; and he believes so of our Counsellors—'Tis now so ordered, but he knows not how. 'Tis said “there was a difference between the Lords, and us; and therefore the last Prorogation was to end it.” But two days Prorogation would have done that, without such a length of time. If the danger be so extraordinary as represented, all hands and docks would have been employed these sixteen months. Will by-standers believe us to be in such danger? If the last time we had been prorogued to *September*, then we might have had time, but we

were called now not till *February*—It seems an effect of a treaty rather than any thing else. But he would now give so much money as may serve till we, or somebody else, [come hither again.] For 600,000*l.* to make a provision for three years! *Pepys* might as well told him nothing. There can be no good shot made without a mark—But he hears that “nothing but plain necessity brings us hither.” He knows why the Excise-bill, and Law-bill, and Wine-bill were not appropriated. The danger was they should pay debts—He would shut the hall door first. The greatest defence of the nation is a good understanding between the King and Parliament—After fifteen months Prorogation, the people are a little afraid of us—But he would show you how we may build these ships betwixt this and the 25th of *March* twelve-month—Ninety-five thousand pounds formerly set out the fleet, and he would give that money which may build it in that time, and no more.

Mr *Garroway*.] *Pepys* told you “that the last Session we had no motion for the fleet worth remembrance,” and now a great sum is moved for, and we know not for what—No debts have been paid, and therefore it concerns us that no more money should be given, but what may be employed in one year. The last Session you enquired into the docks, slips, and launches, and then you agreed you could build but twenty ships in one year. In the value of 4*l.* a head, stores were paid for; and they that undertake that rate, will venture the ships or pay for them, at that rate, wear and tear, and all. He observes one thing, he knows not whether there be a Lord Admiral to have recourse to, that, in these great emergencies, we may trust and know whom to call upon. Though little people make overtures, we cannot rest upon them. We are under no other obligation than to the King, for else we make, by giving money, a supplement to neglect and waste—Not to hide their faults, but for fear of more mischief. Whatever presumptions or hopes we have, he believes all treaty with *France* will be like the *Pyrenean* treaty;
to

to invade *Flanders* the next year—Would grant no more money than we may build with in one year.

Sir *Thomas Littleton*.] The sum proposed for twenty ships he offers double—Would have the Question, for expedition, to be “for a supply of 400,000 *l.* for building ships.” Formerly 300,000 *l.* was thought sufficient, but proposes this sum for the present building twenty ships, and providing stores.

Sir *John Ernly*.] He hears proposed “400,000 *l.* for building twenty ships;” this is positively to say but ten shall be built; so many provisions depend on wind and weather—We are not safe under thirty sail, and would not say positively they shall be built in a year; for no man can say it. The spring comes on, and you must look out for materials. To have it said abroad “you will build but twenty ships.” ’Twill be laughed at! Therefore pass no vote under thirty ships.

Mr *Pepys*.] If any one ask him, how long thirty ships will be building, he must look over several necessities, as docks, men, hands, master builders, materials, and money—He knows not a fifth thing. He submits the rates as he proposed them the last Session*, and places of building. Materials are not doubted to be had, but from abroad; as canvasses, and the rest. If there be provision of money, all the rest will not fail you.

Mr *Garroway*.] The great thing is money; all the rest is confessed—Else if not all built in a year, timber may be immediately bought, and no need at present for cordage, and sails, &c.—And take convenient time—He would be glad to see, a twelve month hence, eighteen of these twenty ships built. Let us once come to see the thing done, and an earnest-penny, and not be put off with words any more. The last time we met, it may be if we had given money for twelve ships, we might have made them up now thirty more.

Mr *Pepys*.] When twenty ships are built, would you stand still, and send for more materials? Timber
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* See Vol. III. p. 327.

to-day, and plank to-morrow, and sunshine must tell you what it is. Thirty ships are not moved for the money's sake, but that hands may not stand idle.

Lord *Cavendish*.] *Pepys* said, "Will you have the Navy stand still?" But he hopes that before a year the Parliament may meet again, unless this money we give shall enable the Ministers to govern without a Parliament. The King, he believes, is far from it, but they are to be suspected.

Mr Secretary *Williamson*.] He hopes there are no such Ministers as are spoken of; he knows none such—The Question is fair before you, to proportion our strength with our neighbours. Any sum he has heard yet named, will come far short of the whole work. He hopes you will supply the rest. But would have no jealousies—The rest must be made up, and the other occasions of the government will call for you again—There is nothing asked for now, but what is necessary, and to be laid out for no other purpose.

Mr *Vaughan*.] We are voting our ruin in giving more than will built twenty ships, when 'tis said to be impossible to build above twenty ships in one year. It may be there is a necessity of disposing of the rest as well as the over-plus. Jealousies, 'tis said, fly about the House—Are you jealous of our return again? Therefore he must join with those that think that sum is enough, 400,000*l.* If we give more, he doubts it will be ill employed.

Sir *William Coventry*.] What calls him up is what fell from *Temple*, viz. "If the King heard you he would give you no thanks"—The thing is of too much importance to let go. He calls them "the Parliament-ships"—Hopes we shall have no more of that here. *Temple* said, "what we give, we give not to the King, but for our own defence." He hopes there will be no such distinctions made here any more betwixt the King and his people—'Twill be of ill renown to the Parliament to say they will build thirty ships, and build but twenty. These ships are not to be built in a closet.

closet. The money, number, names, and dimensions will be all known, and the money now sacred in the Exchequer—And what condition are the rest in ! One is a judge of your will, the other of your impotency—Then we shall be under the contempt of the world, and hardly ever able to recover that ; (the saying more, and doing less)—But would not declare you cannot do more—Would take the same measures you did the last Session, and then no man said, there wanted above twenty ships—For the justification of the undertakers, he would not impose that which cannot be perfected. 'Tis honour in councils, as well as in fight, to keep steady. He would not rise upon a Session, without cause, to give invitation to a new Prorogation, to cut off all those hopes we have before us, by refusing a less sum that a greater may be obtained—He wishes the business dispatched, and at so much a ton, as was rated, last Session, when you voted 300,000 *l.* which, 'twas objected then, would not only build, but fit and prepare the fleet for sea. He will not put you back to new calculations ; but owns not that to be a fund for furnishing out—'Tis said “ that five years ago, there was a war entered into, because it might be done without Parliament.” But if rules had been taken out of Parliament for the last war, we should not have greatened *France* by it—The groans of the people are for it, and he wishes that their fears and terrors are not too—But that war has greatened *France*—Docks and havens, that merchants affairs may go on, (as those sort of men must be supplied) being in hazard. If we are not called to fitting up these in another Session, he hopes some of this money may be spared. If 300,000 *l.* will build twenty ships, 100,000 *l.* will provide stores, and those things—Above all things, would not speak bigger than we can perform, and would have 400,000 *l.* &c.

Sir William Coventry, upon Temple's explanation of himself, jestingly.] Because it will tend to the shortening your time, and quieting the House, that he should be

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in the wrong rather than *Temple*, he will confess himself so.

Sir *Thomas Meres*.] Because his Majesty says so, *Temple* may well say so too. But be the sum 3, or 400,000 *l.* would have the words "not exceeding." He never saw so dispassionate a proceeding, that whole week we were upon this of the Navy, the last Session, and 'twas then also voted, "no other tax should be granted that Session."

Sir *Henry Capel*.] *France's* building these great number of ships is not for trade, but conquest—Would go therefore on, but like sober men, not to give money in a lump, without asking questions, and making enquiry. He agrees to the motion of 400,000 *l.* that we may have occasion to come hither again, in some reasonable time, to see how that is expended, and then supply the rest.

Mr *Neale*.] Is glad to see the opinion of the House, that 400,000 *l.* will do this work. He moved for 600,000 *l.* for stores; considering the hazard in carrying out the *Gottenburgh* fleet ten months, and many have been taken.—

Mr *Finch*.] The necessity is so great, that he thinks we are bound to do something. As for ships, &c. he thinks it agreed what number we should build, and would not restrain it to too narrow terms. Thirty ships have been proposed, and they reduced to twenty. If ever trade was, 'tis now, at stake. 'Tis by the grace of the King, and the providence of God, that we are in peace, and meet here now. You have been told by persons that understand the condition of the Navy better than he, "that 600,000 *l.* will be requisite to put us in some equality with our neighbours," and, "that 'tis impossible the money should be embezzelled."—Let no formal suggestion cool you in the matter.—Let us not lie down and sink under the weight, now the science is represented. But the country is not obliged to them that raised these jealousies. Our liberties, and all we have, depend much upon

upon the greatness of our neighbours, and if care be not taken, we may have just such a dominion of the sea, as we have of *France*; and all may become tenants to *England*, by courtesy of *France*. You are told of ships, "that they are nothing to unity at home."—We have had several Sessions without any public Bills, and of the Prorogations he'll say nothing—Moves that we may give a demonstration to the King that he has the hearts of his people, and that we may do to him what he has done to us. He has generously and spontaneously delivered himself up to this Parliament—Moves for 600,000 *l*.

Sir *George Downing*.] Whatever is bestowed on building ships makes a Parliament still more necessary. For the King must have supply to support them, and so there is no danger of our not meeting. Here is not one that says, thirty ships are not necessary. This great fleet of *France* can intend no other neighbour than we. Now for him to build ships in the great occasion he has for land-armies, this must be against us—But neither twenty, nor ten, nor five ships can be built by us this year. No merchant will put one plank into the outside of a ship that has not lain twelve months. A proposition was made to the States of *Holland* to build them a frigate in six weeks, and so on; but the planks were all sound, laid dry, and prepared. There are thirty ships necessary to go in hand with, and now is the cheapest time to buy timber. Therefore moves for 600,000 *l*. for present going in hand with thirty ships.

Sir *Thomas Lee*.] *Downing* said, "Now is the cheapest time to buy timber, because now ships are least used." He knows not how *Sicily*, *Sweden*, *Denmark*, *Holland*, and *France* have employment for so many ships, if that be so—If so great a sum be raised, as is mentioned, and we can build so few ships in a year, what will become of all that money we are to give now? Shall it lie dead? Shall so great a sum be locked up in a chest? We are told, "No public Bill passed, the last Sef-

Session." The consequence is, without money we shall never have one. 'Tis said, "the difference between the Lords and us occasioned the Prorogation." Which, if we hear nothing of difference, might have been as well hindered then as now if we had given money. If 300,000*l.* the last time, was thought enough, and now 400,000*l.* is demanded, this, he thinks, will build more ships than is proposed—He hopes that temper, and difference, betwixt the Lords and us, will be no reason for money, or no money—He would not have the temptation of breaking an Act of Parliament again, by giving too big a sum, which caused the shutting of the Exchequer, and the employing the money to other uses.

Sir John Hanmer.] In any loyal country no man would mention less for this purpose than 600,000*l.* *Exception was taken at it, but it passed over.*

Mr Secretary Coventry.] It was agreed that the proportion of 300,000*l.* was for building twenty ships, and 400,000*l.* for thirty, but not what could be done in one year for building. To-day is to-day, to-morrow is to-morrow. The *Hollanders*, if they compliment you to day, will question you, perhaps shortly, if they make peace. They have materials ready for ships to a pin, as *Venice* had for galleys, when they made and launched one while *Henry III.* of *France* was at dinner. What will the difference of stores be, fetched in time of peace, in their prices? And perhaps they will not let them go at all. If the King has any Ministers that advise him to raise money without a Parliament, 'tis more than he knows. —And there are none, and he is assured the King has no such thoughts; and that he has more understanding than to rule so.—If any man knows such Ministers, let them be named. *Moves for 600,000*l.* as before.*

Mr Powle.] He is convinced, by this day's Debate, that a supply is best to be given, when grievances are redressed; and thinks we have great reason for distrust

trust of the mismanagement of money, and that 'tis not laid out for the purpose it was given. Hears it said, "that the King has built more ships than all his predecessors." If that be true, 'tis as true that the subject has given more money than has been given since the conquest, things standing thus, and grievances not redressed, and the Prorogation frustrating us. Since 1670, we have had but one Session, and things were then towards a good conclusion.—Has heard it said, "That 400,000 *l.* has been yearly spent upon the Navy." And yet there is hardly a man of war to carry the flag in the *Downs*; and such depredations have been made upon our merchant-men, that it seems almost impossible that 400,000 *l.* should have been yearly spent. At the beginning of the last war there was invading of properties, and not above 400,000 *l.* in the Exchequer; and that being surprized made more clamour—And now 600,000 *l.* may turn the whole scale; to trust such sums in the Exchequer, and have no prospect to stand better at home, and abroad!—Looking to alliances abroad is worth a hundred ships.—'Twas said formerly, "We could not look the *Dutch* in the face, without help of the *French*." He fears now, we cannot look the *French* in the face, without help of the *Dutch*; and yet we assist the *French* with our levies.—Should we have an unfortunate war, all next winter, to supply the defects in winter (ships will be else without convoy) that may be considered. Has heard it said "that the workmanship of the Navy will come to half the charge." Would have the lesser sum, mentioned first, put to the Question—The greater cannot be without danger.

[Mr Secretary *Coventry*.] Would have it considered, whether they will not heighten the value of their alliances, whom you seem to favour here.

[Mr *Powle*.] 'Twould not become him, nor you that hear him,—to debate war and peace here—But war and peace were debated here, in King *James's* time,

time, in the business of the *Palatinate*, and therefore it may be now.

Mr Secretary *Coventry*.] The Address was altered in this Parliament upon that subject.

Sir *Thomas Littleton*.] The Question is now, Whether a greater sum or a less.—He observes only, that 400,000 *l.* may be better appropriated than a greater—As to foreign affairs, they are the great Grievance, and perhaps the greatest. A man in his house finds it amiss, and he finds fault with the sweeping it, when his house is falling. This alliance with *France* carries the Pope in the belly of it; and there is great jealousy that this money to be raised is in aid of the King of *France*. *He was taken down to Order.*

The Speaker.] *Littleton* ought to go on, for probably what he said he may explain, before he ends his discourse.

Sir *Thomas Littleton goes on*.] There have been great jealousies of the rise and aggrandizing of the King of *France*, lately. It increases our jealousies, that, at least, by connivance, so many men are going over to his service—Another thing is behind; you are told of “no breach of the Triple League.” He will not say there was, or was not, nor that a person at the Bar justified the taking the *Smyrna* fleet—The Triple League is restrained, he will not say ’tis broken, nor kept, but at the same time there was a mutual league of defence, and after that a guarantee of mutual defence; *Holland* to assist *England* with 40 ships and 6000 men, and *England* to do the same for *Holland*. This, strictly speaking, is not the Triple League, but a necessary concomitant to it. How far taking the *Smyrna* fleet was assisting the *Hollander*, leaves you to judge; or the assisting *France* with the Duke of *Monmouth*’s forces, at the taking *Maestricht*. The thing was so, but God forgive them that were the occasion of it! But he hopes we shall not give money now to do the same thing again—*France* is less formidable if it has no influence upon our counsels—He must not ravel into treaties, but may say ’tis an easy matter to cure this formidable-

formidableness of the *French*—But because 'tis not done occasions the jealousy. For we place our security under his greatness rather than in our own. He speaks with a good mind of service to his King and country. Therefore would give such a sum as may endanger nothing of this nature.

Sir *Harbottle Grimstone*.] Considering the poverty of the nation, this money cannot be raised here on the country, and fears that it is not to be found in specie.

Sir *Thomas Meres*.] Anciently, the effects of the sea maintained the sea, but not the land. But if it must be so now, 400,000 *l.* is enough in conscience, considering that the Customs, which ought to build ships, and were given for that purpose, are 600,000 *l. per ann.*

Mr *Pepys*.] He has not named a sum yet, and he avoids it. And would speak of no more than will build thirty ships. Building of ships in a great measure is as other things are done; thirty ships are much sooner gone through than fewer. The greatest difficulty is want of materials, without which he cannot give himself up to the security of building—When all lies at stake for a little supply of money, would you not give it?

Mr *Papillon*.] There may very well be spared 50,000 *l.* for stores, out of this sum, by former calculations.

Sir *William Coventry*.] After the rates given in the last Session, twenty ships may be ready built to put into the water for 280,000 *l.* and hopes, by *Downing's* speaking of "the *Holland* methods of building," ten sail more may be done for 200,000 *l.* But would know what has been confuted to day of the resolution of the last Session about these ships? But people would be glad to hear for, or against, whom they must go to sea. If our ancestors consulted their ability and their country before they granted money, 'tis reasonable we should give them that sent us hither a reason why we granted so much money, and carry our justification home with us to tell them the reason. The last Session we were asked, why we gave the King but twenty ships? And we answered, because no more could be built in a year. The last Session we gave 300,000 *l.* for twenty ships,

and now 400,000 *l.* &c. This is but an indifferent account—The people may be satisfied with the ships, but not with the increase of the money. He never heard that above twenty ships were needful, and few were positive in that assertion—He moves, that if the calculation be right of twenty ships, we may give 400,000 *l.* and that will build thirty ships.

The Speaker.] He'll speak to money applied to the service of the Navy—He has served the King three years, as Treasurer of the Navy, and, in a year and a half, he has received for that use 1,500,000 *l.* and the next year 700,000 *l.* And will make no difficulty to prove it at two hours warning. We are brought now to the Question of giving 4 or 600,000 *l.* *Coventry* is cautious in giving his country an account of the money, and we all agree that thirty sail is requisite; but the Question is, whether they can be built in a year, and we can provide materials? Would now certainly provide materials, and it may be, if *Coventry* have so intelligent a Borough as to catechize him, he may thus answer: "If these supplies are not applied to the use they are given, you have as much security almost as an Act of Parliament can give for it." He believes no man is of opinion that the giving 600,000 *l.* now, will delay our meeting again here—The Order of putting the lesser sum first to the Question, is not violated by putting the previous Question.

Sir *Wm Coventry*.] He serves for a maritime Borough [*Great Yarmouth*] and *Seymour* for an inland [*Hindon*.] In maritime Boroughs they know accounts, and so he may be put to it. This account given in here (*Seymour's* account of the ships) being beyond his way of calculation, he knows not what to say to it, when 300,000 *l.* will do for twenty ships, and 400,000 *l.* will not do for thirty.

Resolved, That it is the opinion of the Committee, that a supply be given to his Majesty for the building of ships not exceeding 600,000 *l.* [Agreed to by the House.]

The Previous Question being put, was carried in the affirmative, 199 to 165*. [To proceed on *Tuesday*.]

* This division is not mentioned in the Journal.

Thursday, February 22.

The Bill for recalling the *English* forces out of the *French* King's service, was read a second time.

[Debate.]

Mr *Stockdale*.] A commitment of a Bill is, when it wants something. He knows not whether preventing "seamen" going over, is provided for in the Bill. There's a talk of eighty in one ship being taken going for the *French* service. Whenever such shall be found, would have them tried as felons.

Sir *Richard Temple*.] Great store of gunners are gone to the *French*. He would take care in the Bill that they be not totally cut from you, by omitting a convenient time for their return; else, the penalty in the Bill is so high, that they will serve the King of *France* and never return.

Sir *George Downing*.] He has enquired particularly upon this noise of so many seamen going over to *France*, but, upon farther information, he finds that the *French* forbid taking them into service. That nation being full of people, they will not employ strangers, who may, upon occasion, quit them. For example; suppose that thirty seamen are cast away, and they have no ships nor money to bring them home, and they must come home to their own country at last, but must serve for bread in the mean time;—it would be a hard case that these men should suffer the penalty of this Bill.

Sir *Joseph Tredenham*.] One pilot is more considerable than forty seamen. That which must keep them here, must be encouragement, and he would have that thought of.

Sir *Robert Howard*.] Perhaps this Bill may make 10,000 traitors that it intended not to be—Perhaps this summer may make them gain another victory. Though this is desirable, this works so great a necessity by putting streights upon men, that if they miss but a day of their return home, they are felons. He does not

know they are so estimable in *France* as 'tis thought they are.

Mr *Mallet*.] What sort of people are these, that have gone after three warnings by Bills in this House? He is informed that the success of *Sicily** was much by the *English* seamen, and 'tis high time for this Bill.

Mr *Stanhope*†.] These men are starved by ill usage in the *French* army, and we have had 20,000 slain. Would prevent that.

Mr Secretary *Williamson*.] 'Tis rare that a Bill should be attended with such a Clause, "That the King cannot pardon the offenders against it." As it will not look well towards your Prince, he would omit that Clause.

Mr Secretary *Coventry*.] The King has sent orders to seize all *English* and *Irish* that have taken out commissions. Would make the Bill against such as shall go against the King's Proclamation, which is grounded on law. That would be a good ground to make applications to the King, on occasion, not to pardon them. This has rarely been done, but in Sir *John Coventry's* and Lord *Clarendon's* and those extraordinary cases. Suppose it "Death to return"—And he'll never come home to be hanged. This will make it to serve the King of *France* more than *the sin against the Holy Ghost*, "That the King cannot pardon it"—When we ask a person's consent for a thing, we should not affront him that is to give it. When these men went over, 'twas no felony, but a disobedience to the King's Proclamation. Many of these men went over by treaty, and they are impossible to be recalled—What a figure will you make of the King in this thing? Suppose a man in a garrison and he cannot come—But when he does come you'll hang him. The *Spanish* Ambassador did not declare against any that "were already gone" into that service, but such as for

* At *Palermo*, June 22, 1676, fleet, commanded by the Duke de N. S. where twelve capital ships of the combined squadron of *Spain* and *Holland*, besides galleys, &c. were burnt and destroyed by the *French* *Vivonne*.

† Youngest son to the Earl of *Chesterfield*.

the future "should go"—Would have only in this Bill what the King in honour can pass.

Mr *Sawyer*.] There is an inevitable necessity for these men to be hanged either in *France* or here, by this Bill; and when they went over, 'twas no fault in them. They'll stay where they are, or else 'tis immediate death; and so the Act will have no effect.

Sir *William Coventry*.] A Clause or two in the Bill amiss, is not a sufficient argument to reject it. 'Tis objected, "That the Clause of the King's not pardoning is an unusual Clause." But, possibly, the Committee may find something else which may serve the turn. But if they are upon such terms that they cannot come back, when abroad, capitulations of that nature are always "to return to their King's service when commanded back"—As the *Scotch* regiment was—Either they have liberty to return, or our fellow subjects are ill used by such a neglect in the capitulation—No man can say, but that the King of *France* is already too strong, and no *Englishman* would have him stronger. He cannot believe but that the King of *France* will let them come back, and not break with *England* for a matter so inconsiderable. One or two Sessions we have had great Debate about this, and when we gave the last money, we were sorry that *France* was so great. The next Session we gave no money for that very purpose, but since we went home, what we did was so far from recalling them, that more were sent over. In civil wars there are such animosities that make all men mad. But such a war as this—Nothing can be proposed less a doubt, than that *France* is too big, and shall we make her bigger?

Mr *Vaughan*.] The greatest grievance we have is this—And one way of *France's* growing great is by breaking capitulations. Consider the safety of these persons. This House is not for the King of *France*, and he'll not favour the *English*. But he takes exceptions against the King's power of pardoning, for the former reasons.

Mr *Williams*.] It is no new thing to put such a Clause as this "of the King's not pardoning, &c." into a Bill. In 2 *E. III.* 14 *E. III.* he gave pardons for felony, and murder, and then declared, "No offences should be capable of the King's pardon, but what he might do by his coronation oath." This Clause is a necessity for this time, considering the frequency of pardons for crimes; he never saw the like before—But 'tis very necessary now; the law would else be ineffectual. The reason is, he fears there is something too near betwixt us and the King of *France*. 'Tis said to be hard, because some particular persons may suffer by it. But better that five hundred should suffer than such an inconvenience should be to the nation. We cannot do too much in this matter.

Mr *Love*.] *Sicily* being once conquered by the *French*, not a boat can pass that way without leave of the King of *France*. *De Ruyter* was not worsted by the *French*, but by the *English* in the *French* ships*. If you let this alone this year, 'twill be too late to remedy it the next.

The Bill was ordered to be committed.

The Bill to prevent illegal exaction of money from the subject, was read the second time. (See Vol. III.)

[Debate.]

Sir *George Downing*.] No Revenue of the King's can be taken away by implicit words—The King's old customs—The last Act of tonnage and poundage—and no other rates but what are in that Act—If you say "none shall be levied but by Act of Parliament," shall the King be debarred of his one shilling *per* chaldron upon coals?—The prizes and butlerage revenues are at common law.—He knows not whether they be by Act of Parliament—Without an Act of Parliament, the King is cut off from all these Revenues—The 16th book of rates "All duties lawfully heretofore taken at wharfs, &c." But this word "lawfully," is not always from

* *De Ruyter* was worsted in an engagement with the *French* off *Sicily*, Jan. 7, 1675-6; and in another engagement April 22, 1676, he was killed.

Act

Act of Parliament, but from usage. Though never so lawful now, yet by this Bill they are made illegal without Act of Parliament, and taken away. There is not the third part of necessary provision for levying the Customs by Act, but by judgments in the Exchequer, and by usage. And if the Customs come to be collected otherwise, by this Bill they are declared null, and so all that the Commissioners do will be void—There are many contingent and necessary alterations. If in them no variations are yielded, a thousand honest liege people will be ruined and undone, and what they do be not only void, but illegal—Farther this Bill says, “they shall not only not pay, but withstand”—He knows not the meaning of that word. With such a manner of doing it, and to have such a word, the seamen and bargemen will not only “withstand” the customers, but kill them—Says the officer, “you have stolen custom,” and says the seaman, “you are a lying rogue.” This word “withstand,” will let in all outrages, which such sort of men are too much inclined to already; and all things done, contrary to this Act, must be High Treason. Our ancestors were very circumscribed in words. But all offences against this Bill end in High Treason. These cases happen every day. But there is another exception: A new commodity comes up every day. Says the officer, “’tis such a commodity,” says the merchant, “’tis not;” and it comes to a Jury. The law of exportation of corn, if under a quarter, but a groat duty, and in this case a jury must judge. In the case of barilia and pot-ashes. Says the merchant “’tis barilia,” and pays not the fifth of the duty; pot-ashes twice as much. And if it appears to be barilia, ’tis an illegal imposition—However, upon tryal for life, ’tis whether wilfully levied, or no. In this case the merchant shall only pay his custom, if faulty; and the officer be tried for Treason.

Mr Love.] The words in the Bill are general, and he hopes they will not extend to duties levied by rights of Corporations. As in the factory of *Constantino-*

ple, and other occasions to levy money, of that nature. He hopes you mean not to have it extend to such Corporations.

Mr Secretary *Coventry*.] You put (by this Bill) not the power in the King's sword, but you put the power of "withstanding" into a man before it comes to the King. The Bill says, "he shall not only resist, but call the Constable to assist him"—It may be a bigger power; thus then the Militia—Will you make a Constable judge of what's depending in the Exchequer, as chimney-money, &c? A man is arrested, and he accuses the Bailiff of High Treason. How shall any man know what he is accused of? 'Tis the first time you ever put it into a private man's hand to right himself. The manner of levying Customs by the King of *England* and the King of *France*, is different—*France* by his own will and pleasure, by Edict, may raise what he pleases—*England* only by law; and, by consequence, trade cannot be so easily regulated between them.

Mr *Sacheverell*.] *Love's* objection may be easily provided for; and as for *Coventry's* "of the Militia," there's not one word, in the Bill, but of the civil officers, who are mentioned. He sees the word "withstand" gives offence, but he'll change it for "resist." 5 *Elizabeth*, "made lawful to withstand." *Henry VI.* "lawful to resist the purveyors, &c. who acted by the King's Commission" 18 *E. I.* 5 *E. III.* 23 *H. VI.*

Mr *Vaughan*.] A man that's robbed, shall he not call the Constable to assist? He that acts by no commission, may by law be resisted.

Mr Secretary *Williamson*.] He knows not the matter of these laws mentioned by *Sacheverell*; but, by this Bill, you give indifferent power to all mankind to resist any officer—In those laws mentioned, possibly some particular inconvenience was then known. If a coat or a cloak be asked, a man may resist. But when, perhaps, a parish tax is asked by an officer, and alleged to be illegal, a Constable may be thereupon called for, and resistance made, as this Act is penned.

Mr

Mr *Vaughan*.] Where by common law may a man resist for his coat and cloak? Where an action is void and not voidable, 'tis the same thing as if a man had no Commission—

Sir *Richard Temple*.] If this Bill be restrained to *mal tort*, or any particular thing, it cannot be too severe to hedge it in with severe penalties. He hopes the Committee may provide against a snare, to entangle every controversy of executions of this law, without Treason.

Mr *Williams*.] As to the officers, it may be doubtful in the aggressor who is the offender or the person levied upon. But, as this Bill is, 'tis no more than a declaration of the common law; and every *Englishman* is born a common lawyer. When the law determines the thing, it will justify the man. As when a man distrains illegally, he may justify resistance; but not presently to kill, wound, and beat. But the Bill means "to with-hold the money," as one may do at common law. The Committee may take care of the rest of the particulars in the Bill.

Sir *Nicholas Pedley*, Serjeant.] The intention of the Bill is excellently good, but he is against those general words. Exceptions confirm the rule. Therefore would not have so large words, and not to make sufficient exceptions. 25 *E. I.* "A law was made against levying taxes, saving the ancient aids accustomed." In 28 *E. I.* "desired the savings might be taken away, assuring them from those exceptions." 36 *E. I.* "no saving for casual profits of the King, they might be received"—This went on two years. Then we come to the Petition of Right, where there is "no saving, no gift, loan, tax, shall be levied, unless by Act of Parliament and need"—No exceptions, unless you will enumerate particular cases, and so be puzzled. He hopes the penalty may be mitigated—Many innocent persons may be involved. Therefore be pleased to add such penalties as may be sufficient to deter men, but not to entrap. And would have liberty for persons to have actions to recover, when wronged by great penalties and fines.

The Bill was ordered to be committed,

Friday, February 23.

On Grievances.

Sir *John Mallet*.] Complains of an Election imposed upon the *East India Company*, by special directions from the King, to exclude Mr *Papillon*, and Sir *Francis Drake* left out of the commission of peace in *Devonshire*.

Sir *Thomas Meres*.] Want of liberty of speech is a thing so essential to Parliament, that if there is any want of it, or 'tis impeded, that must be removed—Come we only to discourse this matter, and not to redress things? That is all our power—If the word “consider,” be “to offer remedy,” then go about to consider, the Order being only so. He has that of freedom of speech, and many other things, to say—But would have no Grievances mentioned, so as to be foiled, without propounding remedies. At the same time that he opens a sore, would pour in balsam.

Sir *Thomas Littleton*] Would offer one word. If *Mallet* has not the consent of the Members he mentioned in his complaint, nor any way to make it out by materials, he wonders he should be so officious.

A Message from the Lords interposed, “A Bill to rectify a mistake in an evidence on the marriage of Lord *Maynard*'s son.”

The Speaker.] The Order to the Committee of Grievances is only “to report Grievances when stated, and then to appoint a particular Committee to draw up a form of redressing them.”

Sir *Thomas Clarges*.] The Speaker tells the truth, but not all the truth. At this Committee, trade, property, and law are considered—But this Parliament has had only a cursory Debate of them. Whether you will treat of a redress of them in the House, or not, resolve it. 'Tis said, there are no Grievances but what you have been told of; but there are our foreign alliances, and other things, fit to be redressed.

Sir

Sir Thomas Meres.] The standing Committee has power to hear and give their opinion about redress of Grievances—We start many hares, and kill none with effect—But whether redressed in the House, or at the Committee, let us do it effectually.

Sir Thomas Lee.] Generally the Committee of Grievances is for things without doors—But several things he has heard of, as men in custody (upon verbal warrants of messengers) and if Members must make their Grievances known by petition, then 'tis fit to appoint such a Committee as you were upon generally.

Lord Cavendish.] If this was not considered formerly, there was never more need than now. As for alliances, as long as such counsellors remain, they may still pursue such counsels. One Lord we have made Addresses against formerly—Would have the mismanagement of the Treasury considered.

Col. Birch.] Moves to consider how to stick to the old Order—The day is spent, and the Order is entered exceeding short; but would have certain leave from the House to proceed, and you will hear of these and other Grievances.

Sir Charles Harbord.] The Committee of Grievances may make Sub-Committees to enquire for help.

Mr Powle.] He never observed that Money went on fast, and Grievances slowly, and he fears it now. The ancient Order was for Grievances to precede Supply; but that Order is inverted—Therefore 'tis reasonably moved, to consider redress of them, or appoint a Committee for it; but go which way you will, he expects no great fruit in redress of them.

Lord Obrien.] If there be Grievances, 'tis the best way to lay them open, and leave the Chair.

The Speaker left the Chair, and *Mr Sawyer* took it for the Committee of Grievances.

Mr Papillon.] *Mallet's* mentioning him, as above, was a great surprize to him. He will not now open that matter, but if called, he will. It was a great trouble

trouble to him to have the King's displeasure, but if the matter be examined, it will appear he has not merited it.

Sir *John Holman*.] Would have taken notice of the reversing a judgment made in the King's Bench, upon an old Statute, in the case of the false return of a Knight for *Suffolk*, by the Sheriff. If that be so, every Member may be returned here, as the Sheriffs please, upon the penalty of a small fine in that Statute.

Sir *Thomas Clarges*.] If such letters from the King to the *East India* company, forbidding to chuse their governor, be not an invasion of property, he knows not what is. Would have the governor bring these letters, that you may see them.

Mr *Sacheverell*.] He sees to day what he hoped never to have seen ; that after four or five years of malproceedings in *Westminster-Hall*, Courts of justice are precarious. It seems that Grievances are not big enough to be redressed. The Judges either want judgment or honesty. It is become *six ace*, or *quatre trois*, for a cause in those Courts. Would know, whether the Chancery has taken all law into its authority. One single person may alter all the law. He speaks it not reflectively on this Lord Chancellor, but on that Court. And the Judges now having their patents *durante bene placito*, do as the Court directs. As in one *Miller's* case. They come to Sir *Lionel Jenkins's* Ecclesiastical Court, and a letter is sent to him from the King, to direct him which way to give his judgment, and after the letter was read, he gave a judgment pursuant to it. And at the Court, he said "The King was concerned, and he would have no delegates," and has none—And, at Common Law at *Derby* and *Nottingham* assizes, one person had paid the duty, and had a discharge in full. The exciseman comes next day to distrain upon him, though he owed nothing. The person brings his action of trover and conversion for the goods. The Judge said "That there was an error in the officer, but unless he countenanced the officer, the King would lose his

his revenue;" and so he caused the jury to be withdrawn. At *Nottingham*, he was of the Grand Jury, and a recusant was then presented. Says the Judge, "the indictment shall be drawn, and would have them presented, from sixteen years of age and upwards," though no evidence upon it. The Judge sent them out with the indictment, and the Jury must find that they came not to church, and were all of the age of sixteen years. He told us, "we were a company of fanatics, and would not find a romanist, and we must find six weeks," when three weeks were gone already. And so we went out to find the rest of the time by prophecy. In the action brought by Sir *Samuel Barnardiston* against the Sheriff of *Suffolk*, for a false return, the Judge said, "*Malfezance*, in the action, was pepper, and salt, and nothing;" and tells you it so now, because there's an 100*l.* damage, and so the Sheriff may return what Member he pleases. If this be so, we all sit here to no purpose. Would therefore first proceed in the Grievances from the Courts of *Westminster*—Or else we sit here in vain—For in *Barnardiston's* case, the *malfezance* signified nothing (though greatly to his damage) and the fine was the punishment only. And would likewise have considered the entitling the King to an administration, without hearing the parties.

Sir *John Birkenhead*.] Sir *Lionel Jenkins* is in *servitio domini regis*, and he cannot now answer for it. 'Tis a great charge upon a Judge to proceed in his court by direction of a letter—Would leave the thing till tomorrow morning for farther enquiry.

Colonel *Sandys*.] This looks like a confession of the Long-Robe of what is charged upon their profession, saying nothing in justification of them.

Mr *Williams*.] He never knew, in his eighteen years practice, *Westminster-Hall* better supplied with Judges, with men of learning, loyalty, and integrity. But, as for the Court of Chancery, 'tis not in the power of the present Lord Chancellor to alter the rules he has found in that Court. But 'tis very fit for a Committee

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tee to enquire and represent it to the House—When an arbitrary decree is made when the matter ought to go to the Jury (he reflects not upon my Lord Chancellor) but this is too common and usual—And in the Exchequer too, which is a Court both of Law and Equity. He was of Counsel for merchants there, where 'tis too common to determine what's black white, and what's white black, which by law ought to be tried by twelve men. As for the particular case of *Barnardiston*, he cannot say any thing to fact, but he confesses it has lain heavy upon his spirit, and will lie as heavy on the Committee, if they do not represent it to the House. He takes the judgment in the King's-Bench, in that case, to be legal, and the judgment in the Exchequer-Chamber to be an illegal judgment. An action was brought by *Barnardiston* against the Sheriff of *Suffolk*, "for a false return of a Knight of the Shire, &c." He being chose by the greater number, yet the Sheriff returned Lord *Huntingtower*, who had the lesser number. And "that the Sheriff did it falsely, maliciously, and with intention to put *Barnardiston* to charge in prosecuting the Election, and made a double return," which, in truth, occasioned great cost and expence. The cause was tried in the King's-Bench, where he did then wait. It was laid open "falsly and maliciously, &c." and the particular facts were examined, and the Jury found it "falsly, &c. and that he had thereupon expended 800 l." and the Jury gave him 800 l. damage. It was laboured by that never to be forgotten man, Lord Chief Justice *Hale*, when moved in arrest of judgment, "the matter (says he) touches the House of Commons, a Parliamentary superior Court, to examine. The Question is above us." Another objection was, that it was a new framed action, never such a one heard of before—And shall we create a precedent? Many a double, many a false return will be made. By the Stat. *H. VI.* in a false return, an action of debt might be brought, and if remedy at common law, why was this Statute made? After solemn deliberation, Mr Justice
Wilde

Wilde gave opinion for the plaintiff with reasons. *Rainsford* said, "I am not yet satisfied to give judgment for the plaintiff." *Twysden* "for the plaintiff." *Hale* elaborately "for the plaintiff," and so solemnly pronounced. But from whence Mr *Soames*, the Sheriff of *Suffolk*, had encouragement to make this return, he shall not say what he has heard, till he be called to do it. A writ of error was then brought to the Exchequer-Chamber, and as he has been particular in the King's-Bench, so he shall be in the Exchequer-Chamber. Lord Chief-Justice *Vaughan* was not alive when the judgment was reversed, nor Lord Chief Baron *Turner*. Baron *Bertie* was not Baron when the judgment was given, but was Judge at the reversal; Baron *Lyttleton* and Baron *Thurland* were Judges at the time the judgment was given; *Atkins* at the judgment and reversal. *Wyndham* and *Ellis* were so likewise--It comes to be argued before Lord Chief Justice *North*, Justices *Ellis*, *Wyndham*, *Atkins*, *Thurland*, and *Bertie*. The puisne Judge and was of opinion, that the judgment was erroneous in the King's-Bench, and was for reversal of the judgment. *Thurland* the same. *Ellis* departed from them, and was of opinion the judgment was good. *Atkins* was of opinion it was a legal judgment. All the rest were of opinion the judgment was illegal, and to be reversed. Now the case was before them, how many were for the judgment, and how many against it? *Rainsford* was not satisfied, to five were certain. That the judgment was well given, *Hale*, *Twysden*, *Atkins*, and *Ellis*. For the reversal of the judgment, Lord Chief-Justice *North*, Chief-Baron *Montagu*, Barons *Littleton*, *Thurland*, *Bertie*, and *Wyndham*. Here is then the true poize of the case. If you think fit to debate the matter, how proper 'tis for you, he submits to your judgment. The King may make Judges as he pleases, by his Prerogative. But if the common course of Justice be stopped, there's no Question but that 'tis under the controul of the House of Commons. He has stated you the fact, and, when he is called, shall give reasons why this reversal of judgment is illegal, and a Grievance.

Sir Francis Winnington*.] He has been considering, whether he should commit an offence in violating his conscience, in being silent, or venture to speak here, having so little experience in Parliamentary affairs. But his duty to his country calls him to it, and he will never fail to do his duty, let the consequence be what it will. If it should so fall out, that the courts of *Westminster* should be precarious, as *Sacheverell* says, the security the Kingdom has to have justice done, will come to nothing. You know, when your doors are shut, who are the expositors of the law—The Judges. The discourse he has heard has mentioned persons and things. Whether the Judges are learned, or fit, you will not call him to give an account of his opinion. No age, since the annals of law, can show more learned men—They that now sit, may vye in learning with former ages. But 'tis not for this Committee to enquire into their learning, but into who does not justice; and 'tis his duty to inform you (he may say) whose lives and fortunes depend, if not on their learning, at least on their integrity. He will say nothing for their integrity, though he believes their integrity. He has practised sixteen years in *Westminster-Hall* to this day, in Chancery. And thinks it fit to consider of some bounds to be given to that Court; for the person that sits there, though he believes he has a greater share of learning and justice, (though possibly he has not obliged him) yet must be more than a man, that can do all men right there. As to that Court, he has learned it in law-books—In a few years the Chancery is come to that unbounded greatness, that he cannot tell a client the success of his cause. The tryal of twelve men is little in a cause to that by one man. The client has little remedy, and yet 'tis but the opinion of one man. Some Member in this House has received his ruin by it. By the Statute of *Westminster*, causes are to be tried in the proper County where the lands are of vicinity, and the Jury may find the fact on their

* Solicitor-General. This was the first speech he made.

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knowledge, though they have no evidence ; but now 'tis contrary—On conscience, whether fraudulent, or not. The matter arose from Sir *William Terringham*, whether fraudulent, or not. A Jury of *Surry* was sent for to try this before the King's Restoration, and there were several tryals by Juries of the country—But another *Surry* Jury found it, (either by the art of the Counsel, or something that he will not say) fraudulent, though several Juries out of the proper County found it not—And so 'tis in the power of the Lord Chancellor, or Lord Keeper, to send a cause, depending here, into *Northumberland* to be tried. These things are certainly fit for your consideration. He knows not that this Lord Chancellor has increased any of these instances ; but that he found them so. He instances these only for the Grand Committee to take the Chancery into consideration. *Barnardiston's* case he was a witness of ; as great a cause in the consequence of it, as has been in any age—But to make that a Grievance, as to fact, he thought the Jury very secure. Against *Soames* the Sheriff, seven or eight hundred pounds ! He would not have given it, had he been of the Jury, for all the world. When tried by the Jury, 'twas *quæstio facti*, but when that was over 'twas *quæstio juris*. 'Twas found "that *Soames* did it falsely and maliciously, and made return accordingly." Those very Judges that gave their opinion in the King's-Bench, said to the Jury " 'tis your verdict, and not ours ; we are shut out in fact, but not in law ;" and would do their duty—When found so severely by a Jury, the Law and Court have only the record to look upon. Lord *Hale*, *Twysden*, and *Waldgrave*, gave their opinion that the action would lie, because, as presented on record, it has all the ingredients an action should have, though *Rainsford* was not of that opinion. No man of Law but will make this *probabilis causa*. But 'tis hard that it should be a Grievance, that a Judge is no wiser than his companions. In the case of *Nevil* against *Stroud*, the same was brought to the Exchequer, but never determined. The like

precedent was never known before. In the Statutes of *H. VI. H. VII.* to punish Sheriffs; imprisonment, and 100 *l.* at the suit of the party—Why is this provided for then in law? What he says, he has abundance of witnesses to make out—Not *causa pro amico*, as the Civilians call it, for that is knavery—But there was room for any honest or wise man to say it one way or another—But of doing corruptly he knows nothing. As to what has been said of the Judges of Assize, 'tis wholly out of his cognizance—He will rather hold truth than be thought a good arguer. He has told you truth, and let the consequence be what it will.

Mr *Sacbeverell.*] We need two Acts for the Chancery: 1st, That mortgagers may have time of Common-Law to redeem them; and, 2^{dly}, The nature of trusts—For, as the case now is, sometimes they are by declarations, and sometimes by words—No honest man but has a great task to go through with these trusts in Chancery; as well as the other trouble attending them.

Mr Secretary *Coventry.*] This of regulating the Chancery is so high a matter, that he would have the Long Robe heard for that purpose only.

Mr *Finch.*] As to regulating the Chancery, if there be any token of arbitrary judgment or power of exercising it, 'tis in that Court, and that alone. 'Tis now a great and expensive jurisdiction. The present Lord Chancellor has endeavoured to lessen and restrain it. But as it would be an Act of legislature to extend it, so it would be as much to diminish the power he finds there. He moves to refer this matter to select persons, to enquire, not only into the abuses, but even into the very jurisdiction itself of that Court; and it may be limited by the legislative power, by a Bill.

Serjeant *Maynard.*] Would have likewise a remedy considered for taking men upon sudden and unadvised promises, and for excessive fees, and corruption of jurors. But as for regulating the Chancery, he would not overload the Bill, which always destroys it. A Motion is made for the Committee to bring in all the

Grievances in Chancery, which is he knows not what, He would mend the most material exorbitancies.

Sir Thomas Meres.] Would have no more days upon this, because we have so many Grievances besides— Would go upon that of inordinate fees.

Mr Williams.] In matter of sequestration, by process, when the estate and person are seized, &c.

Mr Secretary Coventry.] Had not the greatest miscreants in the world the benefit of tryal, to hear what they would say for themselves on record? In all the world 'tis so, and will not you hear that Court on this occasion? That is more inconvenient than all the exorbitancies of the Chancery.

Resolved, That the House be moved to appoint a Committee to bring in a Bill “for redressing and regulating all extraordinary power and jurisdiction exercised by the High Court of Chancery, and other Courts of Equity, in matters determinable at Common-Law; which the House agreed to, and ordered *Sir Francis Winnington, &c.* to bring in such a Bill.

Monday, February 26.

Sir Lewis Palmer.] Complained, the other day, of a bailiff who had arrested his servant, and having obtained an Order to bring the bailiff in custody to answer the breach of Privilege, he now desires the Order may be recalled, having discharged the person from his service, understanding he was not fit for him, being in many incumbrances and debts,

Mr Powle.] 'Tis more for the honour of the House to retract an Order, than to persist in doing injustice. You sent for the Warden of the Fleet to bring *Sir John Prettyman* to the Bar—Every man in bail, is in custody of the Law still. Every man that is a prisoner to this House, is under protection of the House. Would reverse your Order, and order the Keeper of the Compter to keep this prisoner still,

Serjeant Maynard.] Would take off Privilege from this man, and let him remain in prison where he is.

Sir *Richard Temple*.] Would punish the person for taking this man against the Privilege of the House; and then overthrow your Order, and he is where he was before.

Mr *Sawyer*.] The Question is, "Whether you will extend your Privilege to release this man in prison," now you are fully apprized, that this person has deluded your Member. Privilege will destroy all mankind, if made use of to take a man out, and put him again into prison.

The Speaker.] Now the case is upon enquiry, *Palmer* has found himself circumvented in taking this servant. The House should have right in it, and the first Order be preserved.

Sir *Lewis Palmer* said] He knew nothing of this person's being either under bail or imprisonment; the person pretending only some troubles, and craved his protection, and had it; but when he was better informed, he discharged him his service.

Sir *Harbottle Grimstone*.] No Member's retaining a person for his servant does discharge that person from prison; and no Privilege was ever allowed for a Member's retaining a servant in prison. Though he is but upon bail, yet he is in *custodiâ legis*, and there is no breach of Privilege in the first taking a man so bailed, or detaining him. He would have the man left where he was.

Sir *Thomas Lee*.] Would not have a precedent for a thing complained of formerly—The Order is, "A complaint being made for detaining a servant of *Palmer's*, &c."—The Order was issued out to free him—But afterwards it appearing that the Member had discharged him his service, and that he was no more his servant, the House does discharge him.

Agreed to accordingly.

Tuesday, February 27.

A Bill for exportation of leather was read.

Serjeant *Maynard* brought in a Bill for making void the bonds taken of the present incumbent by the patron, for resigning, after he has been settled a year. Mr

Mr *Boscawen*.] The Law has declared this to be no Simony. A bond is taken to resign. Possibly, one may be presented very unfit—Yet it has been judged no Simony to do it. He would prevent Simony really practised through the nation. If a man takes two livings, or be non-resident, it is lawful to take a bond for resigning. If you'll make a law against having two benefices, or pluralities, he would be for such a Bill, otherwise would throw this out.

Sir *Edward Dering*.] Would have a Law not to sell the next avoidance, and what else may be properly added to this Bill, and retain it.

The Speaker.] The not reading a Bill a second time is a rejection of it, without putting any farther Question.

The Bill was rejected, [147 to 62.]

In a Grand Committee on the Supply. Sir *Richard Temple* in the Chair.

Sir *Joseph Tredenham*.] We are to consider the way to raise this Supply. He cannot think himself so happy as to find a medium to show you the way, but it will be most for your service to place it upon such happy mediums as may be real, and not imaginary. He can think of no other than a Land Tax. For this money is for the defence of our land. We sit here not in our own rights, but as trustees for the people, and for them nothing can be better than providing capital ships. He proposes that we give it by Land Tax, at the rate of 35000 *l.* per month, for eighteen months, to answer all designs.

Sir *John Hanmer*.] The last time 300,000 *l.* was proposed for building ships, &c. by a Land Tax, and no other possible way could be found out. Moves, that this sum may be raised so from three months to three months, in eighteen months.

Col. *Birch*. The Order was read, "to proceed in the farther consideration of his Majesty's Supply." The Order leads you not into *Tredenham's* Debate. He tells you of a way of raising it, which is a thing quite

of another nature. Would you go the nearest way to your end? If you intend "to proceed farther," which are the words of the Order, then you must go through that, having the whole Supply before you; which if we have not, we must go another way. If any thing farther of Supply be offered, would hear it, and have a clear resolution, whether you will consider only the manner of raising this 600,000 *l.* or go farther, "to consider the King's Speech in what relates to Supply."

[Sir Thomas Meres.] Would have the paragraph of the King's Speech relating to an additional Supply of his Revenue, and to make him more easy, read. There are in it three expressions for money. "1st, for ships; 2^{dly}, for an additional Revenue, (it seems, that of the Excise was given to pay debts, but whether paid, or no, he knows not) and 3^{dly}, for his ease, &c." Never was Revenue in this House asked and given for payment of debts. The preamble of that Act for the additional Excise will show you that that was given for payment of debts; and 'twas then said, Trust the King. But the thing was not done—No debts were paid. Land Tax insensibly pulls down all rents. He knows not the reason, but he affirms they do fall. He assigns one great cause (though one little help was in the Corn clause, when we gave 1,250,000 *l.* that helped a little) Wool gives nothing, sheep make no profit. When you say that that is the Question, whether you will give a tax upon this Excise for future years, he will then give you his thoughts upon it. Before you lay the pack on the horse, he would know what you'll put in it. Would lay every thing before you. Land Tax is a melancholy thought, and should be the last for our consideration. He then offered words, but 'twas late, and we were weary, and lest the weariness of mankind should throw away the Question, he pressed it not. If a gentleman do insist on the Excise, let us reason it for the good of *England*.

[The Speaker.] By the Order read, the Motion was made for Supply for building ships, and by that Order

der the Motion was first made in the House, and then the Committee was to consider of it, as you formerly did. Till then, we were not warranted to proceed at the Committee. So that now here's nothing to consider, but having resolved the sum, and the ships to be built, you consider the method of raising it. If *Meres* has any other method than Land Tax to raise this sum, he would do good service in showing it.

Sir Thomas Meres.] The sum was not made in the House, nor the manner of raising it, but at the Committee. The Motion was made formerly in the House, and nothing was before us but Supply in general. The Committee have showed you a disposition to supply, but "farther," is what the Committee may consider. 'Tis not in nature of the manner of burthening the people, till you will say how much you will lay upon them.

Mr Secretary Coventry.] You have proceeded by paragraphs, and have voted one 600,000 *l.* but not how 'tis to be raised. Therefore would be off from that, before you go to another thing. The Question being naturally "how you'll raise it, and how your Vote shall be made effectual." As if a servant should be sent a journey by his master, and asks him money for his journey, and his master should answer him, "the Devil take me if I give you any money to buy cloaths!" If this money come short, the ships cannot be built. Chimney-money, by a great Member, was valued at 600,000 *l. per ann.* and 'tis fallen to 140,000 *l.* Would have this money so surely laid, as to be raised, and he knows no way to do it, but by Land Tax.

Sir Thomas Clarges.] *Temple* (as Chairman) ought to sit down when any gentleman speaks, and not to enter into the Debate.

Sir Harbottle Grimstone.] Sees the intention of the Debates in the precedency of the Question, which is proper to take into consideration. 'Tis said, if this be all the Tax to be given, there's no great difficulty—But he would know all, because we are to dispose of

all. That of Secretary *Coventry's* "man to go a journey" may be answered with a Question—One borrows money, not for cloaths, but asks money; says he, "if you promise me you'll borrow no more, I'll lend you some." Would know what is the need of more money? They do you the best service that show you all the ways for doing it, for the ease of the people, and would know whether this be all that is demanded. [Sir *Robert Carr.*] That Question is proper for the House. In the mean time would proceed by Land Tax for this sum, 600,000 *l.*

[Sir *Thomas Clarges.*] The manner is always expressed in the Orders. But to-day the Order is "for farther consideration of the King's Supply." The last time, we were told, we had 150 ships then all ready; and 300,000 *l.* was granted for building twenty more, and this sum will do for forty. Therefore would not lose time, but proceed to the farther consideration of the King's Speech.

[Sir *George Downing.*] To Order only, a Question is offered, Whether you'll give more than 600,000 *l.* If put, every man is free. If carried in the affirmative, What Order have you to give more? Has any such thing ever been propounded in the House? And 'tis a fine way, by a side wind, to engage the House, to give more money.

[Mr *Garroway.*] Will you put us to it, that one sum of money shall be raised here, and another in the House? One sum for a Poll Bill, and another for Excise? Can we, at this rate, tell which way in the world to give?—Here is a way wanting in the Order to raise it. If your Orders are too short, let the Speaker take the Chair, and enlarge them.

[Sir *John Ernly.*] He doubts you cannot regularly do it in a Committee, and would have every man have his satisfaction, and the Speaker take the Chair.

[Sir *Thomas Meres.*] You must know for what to go to the House; whether for their leave for farther Proceedings.

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[The Speaker.] It seems, the Question at the Committee is, whether they shall consider of another Supply for the King. There is a difference betwixt the King's Supply and a Supply for the King.

[Mr Swynfin.] "To proceed to the farther consideration of the King's Supply," is the Order, and would keep close to that.—Would not enter into the merits, but only consider the Order.—The matter of Supply.—The Order is to govern the Committee in all things—But there is no such Order from the House as to consider the manner of raising it. This still restrains it to the matter of Supply, and we must follow the directions of the House.—We have considered so far as 600,000*l* or more, but not the manner of raising it. What is more natural than to consider first of the matter, and then a farther consideration of the manner? The only reason why the Speaker should take the Chair is, to shorten Debates concerning the Order.—Without any manner of Question, would have the Speaker take the Chair; else you will determine the thing by a Question here, before you come to the House.

[Mr Sawyer.] Differs from Swynfin. He would have no jealousies, &c.

[Sir Thomas Meres.] He knows not where the jealousies are; there are more to be feared. If other men are for the Excise, he is not.

[Mr Garroway.] Is jealous there has been a design two or three ways, to pass this off our hands, to give more money—Would not be hobbled upon any account—Would at once see how much money we are to give.

[Sir Tho. Lee.] His jealousy is to continue such a revenue, to bring on such a war as the last, which was occasioned by such a sum. 'Tis proper to put the Question to this effect; Whether the Committee think it fit to grant any farther time, in the Excise of 9*d.* and 6*d.*? If so, to save your lands thereby, and raise 600,000 *l.* that way.

[Mr Powle.] The Debate first entered into the manner of the Supply. Now the Question is before us—

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The matter must be decided before the manner. The Question is now, whether the Committee intend to continue the Excise for a farther time, or not? It affected land more than direct Land Tax. If continued, and Land Tax loaden too, the nation cannot bear it.

Sir John Ernly.] Would have directions, but the Speaker to take the Chair. He thinks *Powle's* arguments very disproportionable; if it did affect, as he says, he would not have laid out so much money in a late purchase of lands he has made, as he has done.

Sir Adam Brown.] He believes the Excise does not affect Land Tax. With him, in *Surry*, malt gives a good price, because 'tis exported. He wonders how so many alehouses should be, if they are so vexed and grieved by the Excise, as is said. Men are grown poorer rather by ill husbandry, than any thing else.

Mr Sacheverell.] He thinks, by the arguments he has heard, that we shall enter into the Debate, Whether the Excise be a charge upon the people. He takes the Excise to be a Land Tax already. 13*d.* on every bushel is 6*s.* and 6*d.* on every hoghead of beer or ale. An acre of corn of three quarters of barley, is 20*s.* by the Excise, upon the acre. Would ask the officers of the Excise a question; Whether, when corn did rise, when so many thousands left brewing, if the charge laid was so much less, the consumption being less? If so, the Tax upon corn and land would be lessened perpetually.

Sir Charles Harbord.] The Excise in *Holland* weakens not the purses of the subjects.

Sir George Downing.] No man has propounded the Excise for a way to build ships. If so, then *Sacheverell* spoke *apropos*.

Sir Thomas Lee.] This Question excludes nothing of the raising the 600,000*l.* but hopes it will of the Excise.

The Speaker.] If any man proposes this sum to be raised by Excise, then 'tis a proper Question.—But 'twas never known that a Committee rose without a
vote,

vote. When once you resolved to supply, no instance can be given, that the manner was not proceeded in—'Till you know by a Question—That should be all.

[Sir Thomas Meres.] This is a new Question. 600,000*l.* is a great Supply in time of peace; what then must it be in war?—We are told how near we are to it.—Take that Motion then; and go to the House for farther Supply. But why shall we not keep our Chairman, *Temple*? (*jeeringly*) We like him very well—'Tis for no other end but to explain our Order, if we change our Chairman—He would above-board know whether this Excise be to be given, though he is not for it—Yet when known how we shall proceed, he will argue accordingly—He would fain be gone. He loves not sitting long here, for fear of giving yet more.

[Mr Sacheverell.] Is not for *Temple's* leaving the Chair, but thinks the Committee has authority to put the Question, whether this of the Excise is a revenue or duty, (he thinks 'tis neither; he calls it rather an imposition) that shall be continued.

Col. *Birch*.] He did not believe this Debate would have held you so long. You are moved to raise this money by Land Tax. Says another gentleman, "No, if you continue the Excise, you charge the Land double." No Question can be put, but whether the Question shall be put, or no.

Sir *Edward Dering*.] The Question is, Whether 'twas the sense of the House that we should proceed upon the manner of raising this money, or whether proceed farther upon the continuation of the Excise?

Sir *Thomas Lee*.] Every way was proposed and debated formerly, in the raising the 1,600,000*l.* The Question is not now upon Supply, but the manner of raising it. If you continue the Excise, 'tis another manner of raising the money.

Mr *Boscarven*.] Some talk of Land Tax, and some of Excise. Upon wool and corn is Land Tax, but Excise more.—A multitude of officers attend the Excise, but would rather chuse the Excise, than both
Land

Land Tax and Excise. If gentlemen will have but one of them, let them chuse.—He believes them both alike.

Mr Waller.] Here is a jealousy that the Excise should be the Question, which is not to be removed but in the House.—The same steps we were in the last Session—He is for appropriating the 600,000 *l.* given. We were no more concluded by the former 300,000 *l.* than we are by this 600,000 *l.* We then calculated the number of ships, and the cost. Three subsidies, and three fifteenths, is worth 100,000 *l.*—When we had war with *Spain*—Then for *Ireland* was the first leading case of 400,000 *l.* raised by Land Tax. Then we were in earnest, and think ourselves now in as much earnest. It is now his opinion that this money be raised by Land Tax; that you vote it, and appropriate it. Do as you did last time, and as his votes went last time, they shall do this.

Sir William Coventry.] Finds gentlemen entangled in the Debate, because we know not whether the Excise will be continued. (The Excise of 3 *d.* upon the barrel is no revenue; 'twas granted towards the payment of the King's debt of 1,600,000 *l.* given in by *Sir Robert Long.*) If that be made revenue, Land Tax may be so too, (would not have that swallowed.) Lands are still charged by the Excise, if we give no Tax—He thinks we are to resort to the House for direction, but so as to leave the House to one or the other opinion; therefore would have no involving any Question whatsoever, but would go only for farther directions to the House for our proceedings.

Sir Richard Temple left the Chair; and reported, That the Committee desires the directions of the House how to proceed in the business of the King's Supply.

Mr Powle.] The Committee, it seems, doubts in their proceedings. He is of opinion, rather than Excise, to have your Land charged; because he would not have it double charged; which in consequence is more per-

pernicious than Land Tax. Moves therefore, that the Excise expiring *Midsummer* next, may not be farther continued.

Sir *Edmund Jennings*.] You have passed the sum of money you will give, and would not lose time in farther Debate, but consider the manner of raising it.

Sir *Eliab Harvey*.] Complained, that the Speaker looks not so easily this way as the other.—Would have the previous Question.

Sir *Thomas Littleton*.] An improper Question! None can, nor ought to be the Question, that is an intricate and involved Question. But it is said, it may be proposed that part of this sum, or all, may be on the Excise; but if it pass in the negative, yet we are not secure, for it may be to another use, though not to this—Would have therefore the previous Question.

Sir *Thomas Meres*.] He is not for continuing the duty upon the Excise, but if it be carried in the affirmative, he may then tell you how to ease your land. For he would ease land.

Col. *Birch*.] He has been studying the reason of this nicety about the Question.—Now, he says, you cannot put the Question by Order. You now put the Question, Whether to proceed, at the Committee, to the manner of raising this money, or not. He cannot vote for Land Tax till it be clear whether the duty upon the Excise be not a concurrent Land Tax. If the previous Question be put, and carried, then all the Debates will be negative.

The Speaker.] He must always put affirmative Questions. You may as well put a Question upon the Law-Bill, or any thing else.—The affirmative concludes a negative; which is the reason of a previous Question.

Mr *Sacheverell*.] All men understand the main Question, and he would have it.

Sir *Thomas Littleton*.] Is content that the main Question should be put, though he moved for the previous Question.

Serjeant *Seys.*] Matter of Supply goes to all the three parts of the King's Speech, You are past the first part of it, and you are properly upon the next, which is the *Excise*; and so on to the third, which is the King's debts; and so you go orderly upon them in their course.

Sir *William Coventry.*] Any involving Question is purposely declined in the Committee, and therefore we are free to propose any thing. The Question is not for direction to the Committee to proceed on Land Tax; but, whether you will go upon the consideration of the manner of raising the money, or not. We are now free to propose the *Excise*, and manner of levying 600,000 *l.*—The least that can be said—Here are two Questions striving for preference, and which must be foremost is the Question—He hears much urged of the necessity of the speed of levying this money; but will ships be ever the sooner built by it? Let gentlemen speak plainly, whether we shall have grievances redressed, or the Money Bill sent up before its fellows. You shall not have an Act the sooner for it, nor ships. To what use are these occasions of jealousies that money should so out-run grievances? Were it not a strange proposition to raise money before we see our work?—Would not have propositions to raise money, before we know how much we shall raise, 'Tis no contemptible thing to ease your land, by laying this tax upon *Excise*, or any way—That must be resolved; else it would be as preposterous a thing as to lay out all the money for timber for ships, and leave none for the rest of the materials. When you know what you are to raise, then is the proper time to say on what you will raise it; and the next Question is, Whether the Committee shall proceed on the next thing in the King's Speech, *viz.* the *Excise*?

Mr Secretary *Williamson.*] A great many things, if he knew the incidents of them, he might give a more judicious opinion of, and nearer; but that takes not
totally

totally away the liberty of judging, and in this matter, one way or other carried, he has that liberty.

Sir *William Coventry*.] The Speaker can as little collect from the Committee Supply, or Excise—Here are two Questions contending in the House for precedency, and what was first proposed, ought, by Order, to be first put.

Sir *Thomas Clarges*.] The Committee reported matters of doubt that did there arise not in writing, and so you are upon nothing but directions.

Sir *Thomas Littleton*.] There is no great difficulty in this matter. Farther directions to the Committee, of two sorts, are moved for. First, the manner of raising the Supply; and, secondly, for the Excise.

These Questions were both stated.

Resolved, That directions be given to the Committee, [That they do,] in the first place, proceed to consider the manner of raising [the Supply to his Majesty, not exceeding] 600,000*l.* for the building of ships. On a division, 183 to 163.

[Adjourned to *Thursday*.]

Thursday, March 1.

The Bill for exportation of Leather [was read a second time.]

Sir *John Knight*.] Exportation of Leather will better the land by increase of the price of Leather.

Sir *Richard Everard*.] Proffers a Petition from the leather-cutters against the Bill.

Col. *Birch*.] He likes the Bill, but would have any Petition heard concerning it.

The Petition imported “either to dismiss the Bill, or to be heard at the Bar.” The Petition was referred to a Committee, where the shoe-makers [or leather-cutters] pretended, “that their trade would be spoiled by the Bill, by reason of the many persons they set on work for boots and shoes for the plantations.” To which it was replied, by the leather-sellers, “that formerly, when exportation of Leather was not prohibited, the Custom Entry was near as much as since the prohibition. [The Bill was ordered to be committed*.]

* The Bill passed the Commons, but was thrown out by the Lords,

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A Bill to encourage the planting and sowing of hemp and flax [was read the second time.]

Sir *Thomas Mompeffon*.] The Bill is not practicable. Some lands cannot bear Hemp.

Mr *Sacheverell*.] Would have the Committee consider what countries the Bill will be proper for. 'Tis for ours, and would commit it.

Col. *Birch*.] He brought the Bill in—In a body natural, if all the blood be brought up into the head, there will follow a dissolution. All the money is brought to *London*, and little left in the country but clipt and worn money. If it be so in fact, what will *England* come to in a short time? The country is almost depopulated for want of employment, and the people will follow employment. Employment is either from husbandry or trade. Want of people has forced the farmer to thrash himself. He cannot keep servants, corn is so cheap; and when 'tis got, there is nobody to eat it, and yet when we reap it, there is eighteen pence or two shillings a day for workmen, so few are there to be got. He is far from thinking this Bill to be a present advantage to the nation this year—But where land is proper for it, in most towns some is sown. This is the end of this Bill; if it pass, not one poor person will be in *England* that will but work. This half acre (enjoined in the Bill) is as much as most of the poor of a parish can dress. A poor woman that can get three pence half-penny a day will work, but you have not work for them without such a Bill, not for one in ten. Twenty shillings-worth of linnen takes up more hands to make it, than ten pounds-worth of woollen. Though there is a Statute to set the poor to work, it rather increases the poor, than tends to a diminution. They allow them money weekly. If wool should fail, this would set the poor to work. You pay 150,000 *l.* per ann. for foreign linnens—Possibly, you may clap some of the money to be raised upon it. Possibly, you may employ all the poor, and whether you will continue this expensive trade of linnen, and be pestered with

with poor for a year or two's inconvenience on gentlemen's lands, till this be settled, leaves it to you.

Mr *Swynfin*.] He thinks it a great confidence in *Birch* to teach all gentlemen and farmers in *England* how to husband their land. If there be any profit in planting hemp and flax, there needs no law to compel men to it, but that of necessity, all ways else failing. Flax and hemp are no strangers here. The sowing of it goes out, because people make no profit of it. If it were for their advantage, men would turn all their lands to it. *Birch* tells you, "he has sown none these seven years, though he has land fit for it." He believes he can make no profit of it. Is it imaginable this can take any effect? By experience, we find, flax is at so low a rate that they sow it no more, and persons will pay a penalty rather than do it, and so the Act may be an universal penalty. It may possibly breed some surveyors, and make officers break their oaths. How can he swear to so many acres? Can this then help the poor, or the farmers, who, by this law, must groan under the penalties? This Bill is, upon a supposition only, to put all husbandmen upon new experiments. Let us have no more trouble with this Bill, to hinder us from greater affairs.

Sir *George Downing*.] He believes that for *French linnen* there goes alone 500,000 *l. per ann.* besides other linnen. He is for the Bill, but utterly against the imposing the half acre in a hundred acres to be planted with hemp and flax under a penalty. He is not for a tax under a continued pretence; and this of planting, &c; and to the end of the world. He knows a hundred parishes that have not one acre fit for it. Would move for planting olives, oranges, or pomegranates, as practicable as this. Hemp and flax can only be planted on mellow ground. As for *Hertfordshire* husbandry, one changed his husbandry three miles off, and he spoiled his husbandry quite. You may as well plant *Canary* wine, under as specious pretences, as hemp and flax. By this Bill, we bring

in a Law to wipe away all covenants and jointures, &c. nay, to plough up old pasture, and meadows, and perhaps in twenty years no grafs will come up again. Every year this half acre to plant hemp, &c. and in time all this done to plant *Canary* grapes. In 43 *Eliz.* was there ever a more specious pretence than, in that Statute, to maintain the poor, and the matter not mended? For mankind (another Statute) hoot him out of the parish; but for foxes, hunt them, but spare them to make more sport. He has lived in countries where care is taken of the poor, but not this way. Consider what this charitable pretence of relieving the poor has been. But so much tax upon your lands. In *St Martin's* parish what vast taxes are raised for the poor? What becomes of it? All is paid and all spent. If you will encourage linnen manufactures, make it every man's interest to plant it; else you'll have your lands taxed, and nothing else will come of it. The flax-dressers were invited hither from abroad, and then starts up a little Statute of freedom, and they rot in jail. Though you could have flax for nothing, this will not turn to account, the *French* linnen coming it at one third part value that we can make it at.

Col. *Birch.*] Is glad that *Downing* speaks a language that he understands. Now *apropos.* He said, "this Bill would make some men popular." That's *apropos.* He has set men at work all near him—*Downing* might have as well charitably interpreted him. 'Tis said, this Bill is against the interest of all *England.* He brings on this to repeal the Statute of 43 *Elizabeth*, that you may have this to say, here's work for all *England.* To whip and lash beggars, and have no work for them, is that sense?—One Statute is to maintain idle persons without work. *Swynfin* said "he thought it a great confidence to teach all the farmers how to husband their land." But he can show him when this Bill passed the House twice, and was not rejected on this account, but only on the rate of half a crown for tythe composition: 'I was not the matter that was rejected. If the Bill pass, you

you may, in three months after, take away the Statute of 43 *Eliz.* For here's work to employ the poor. There's no intent by the Bill, but, being weary of the cry of the poor, to prevent people from going into *France* or the plantations. As the case stands now, 'tis true, we can buy linnen cheaper than plant it—He does aver, that, if the thing were equal in all parishes, no poor would be in *England*.

Sir *William Coventry*.] Doubts not but that we have need to employ the poor. If a man have a wife and children, and the man break, and is not able to maintain them, he goes to the plantations, or does any thing, for a livelihood. He desires that encouragement may be given to the planting hemp and flax. But the only material objection is, the compulsory parts of the Bill. They are not usually well executed; mens hearts go not along with it. He would have the Committee think of an inducement and encouragement to do it, as well as compulsion. 'Tis said, "that this Bill is a Devil that haunts us." If so, one Devil went up to the Lords, and another came down from them. The Lords would have had five shillings upon the acre in lieu of tythe, and the Commons but two shillings and sixpence. 'Twas then the opinion of this House, that five shillings would load it too high, and we could not lower it, and that threw the Bill out. All the ill in it must come from the compulsory part, and he would have a Committee to qualify it.

Mr *Pepys*.] 'Tis an ill consideration, that so essential a thing as setting out the fleet should depend upon this. Sails are all upon *French* cloths. We have but one sort of them not from *France*; those are *Holland* doubles—Would not depend on any of our best friends the *Dutch*, and our worst enemies the *French*, for sails. Therefore would commit the Bill.

Sir *Thomas Clarges*.] If this planting should be compulsory, the Debate would enervate the Bill—Nobody will do it. Let the Bill be rather temporary. He would not depend either on *France* or *Holland* for send-

ing our fleet. He remembers an expedient for the compulsory part, *viz.* lessening the tythe, and would have that referred to the Committee.

Col. *Birch.*] Since the orthodox Clergy came home again, land has fallen one third part, by their keeping money dead in their hands, which they have received by fines. This Bill may revive lands again, and set the poor on work.

Sir *Thomas Mompesson.*] Would rather give *Birch* half his land, by Act of Parliament, than have this compulsory Clause to make him put his land to what it is no way proper for, to his loss.

Mr Secretary *Coventry.*] *Birch* does not spend so much of his time in that church, where those orthodox Churchmen are, as to know much of them. Before they came in, there was a standing army that helped to eat our provisions, and so rents were better paid.

Sir *Thomas Lee.*] Would have the Bill committed, but so that the compulsory Clause may be left out—Which will be ineffectual, unless 'tis for their interest to plant, &c. 'Tis said, "there was a standing army that helped to eat, but now we have a standing army to whom our money goes, and they do nothing for it,

Mr *Mallet.*] We are not merry nor angry. Would not rake up old sores (Col. *Sandys*) pardoned by the Act of Oblivion. He has but one objection to the Bill, *viz.* "that it spoils water and destroys fish, the hemp being laid in it."

The Bill was ordered to be committed.

A Note was sent into the House to Sir *John Hotham*, sealed *viz.* "Why should the forts and governments of the greatest importance in the nation remain in the custody of men that are either Atheists or Papists, and such as are wholly frenchified, and for arbitrary government? And yet none of you have hands nor hearts to complain; which to *England* seems strange—Look to it---" who gave it to the Speaker, and acquainted the House that he had a Note of a strange nature sent in to him sealed. It was not publicly read*.

Sir *Thomas Lee.*] Finds no Order for the business of the day, for the House to go into a Grand Committee for Grievances; and, he believes, no Order will be en-

* There is no mention of this in the Journal.

tered for the future, but what shall be acceptable to the Clerk.

Mr *Garroway*.] Moves for a new Clerk, this Clerk having several times abused us; and would have him removed.

Sir *William Hickman*.] The Clerk has served you so very often, and at this time he puts gentlemen into Committees whom he knows to be in *Lancashire*.

Mr *Sacheverell*.] Thinks, if you let this pass, you may as well burn all your Journals. He has been one of the Committee for inspecting the Journals, and has had a Report ready in his hand these four Sessions. In the Session of 1672, the sense of the House was declared so, and entered otherwise. He moves for a new Clerk, and that the King may be desired it. The two first pages of that Session may much call in question the Privilege and Right of this House.

Col. *Birch*.] He is for a new Clerk. He has heard complaints of him these seven years, of these miscarriages. When *Birkenhead* says, "Rolls and Records," he tells you they are so of his knowledge, and not one print agrees with the Rolls in matter and form. He takes thus the law to be. If any printed Act agrees not with the Record, a person tried may appeal to the Record, whether the law be so or not. Judge then the danger of false entering things in our books.

The Order for the day not being entered into the Journal by the Clerk, the consideration of Grievances was adjourned to *Saturday* next.

A Committee was appointed to inspect the Journal of the year 1672, and to examine and report the matter of the entry.

Sir *Edward Dering*.] Several rates, in the printed book of the customs, are higher by much than in the Record. And by the Bill now depending, to make it Treason to levy money contrary to Law, men may be ensnared by it.

Friday, March 2.

Lord *Cavendish*.] Moved to consider of the manner of Dr *Cary*'s commitment to the *Tower* by the Lords,

Ec*. And produced a copy of the Lords Order of commitment †.

Sir Thomas Clarges.] Moves that a Committee may be appointed to search the Lords Journal, to state the matter of fact; the King having particularly recommended it to the Lords care, not to occasion any difference between them and the Commons.

Mr Secretary Coventry.] Dr Cary is committed for bringing a libel to the press, which maintains "that you sit wrongfully, and have no right to sit as a Parliament." Whether this be not cognizable by the Lords, as well as you, is the Question. He has refused to give any satisfaction to the Lords from whom he had the libel, and so they have committed him for libelling them, as you would have had cognizance, if he had violated or struck any Lord or Member.

Sir Thomas Lee.] He fears that the Lords will encroach precedents upon you; possibly the thing moved for is too early. But crimes against the Government are not to be immediately punished in Parliament, for the Law is open.

Mr Sacheverell.] For the seasonableness of the Motion he will not speak, but the thing being come before you, the matter is, how to get off from it. 21 and 22 R. II. A Statute was made to rule that power, just as the Lords do now exercise it, to prevent taking off Commons Heads at their pleasure. This was the ground of all your first difference with the Lords; they taking a cause originally before them. If the power of the Lords be to examine a

* One Dr Cary was brought to the Bar of the House of Lords, and questioned concerning a M S treating of the illegality of the Prorogation, which he had carried to the press; and because he declined answering such Questions as were put to him, and took sanctuary in the laws, which oblige no man to accuse himself, they fined him 1000 l. and sent him close pri-

soner to the Tower till it was paid. That the Lords, who had made so free with their own Privileges, by submitting the liberty of four of their body at once to the pleasure of his Majesty, should make thus free with both the liberty & property of a Commoner, is perhaps scarce to be wondered at. *Ralph.*

† There is no mention of this Debate in the Journal.

Commoner against himself, and to condemn him for not answering, he knows not what condition we all are in. He would therefore have the matter looked into, and if it appear to be as 'tis represented, would proceed in it; and moves for some persons to be appointed to search the Lords Journal.

Lord *Cavendish*.] He brought this business into the House, not to hinder the business of the day, but for the information of the House only.

Col. *Birch*.] Would go on to the business of the day, and enquire into this to-morrow. He knows not what to say to the matter, but would have no difference with the Lords, nor would give up our rights, in silently putting up this their imprisonment of a Commoner, as an original cause.

Sir *John Ernly*.] He has a paper in his hand, which he is ashamed of, sent to the Lord Mayor.—*He was interrupted by*

Mr Secretary *Coventry*.] To Order. If this House, and the Lords House, can find no way to punish such seditious libellers, you may be pulled out of your Chair; and as they brought the late King to the block, at this rate they may do this also. And moves to proceed no farther in this thing, and the Lords punishment of Dr *Cary* is just.

Mr *Williams*.] He hears this thing of the Lords commitment of *Cary* justified from the Bar, before we know what it is. Moves to have *Ernly's* paper read.

Sir *William Coventry*.] He sees you are yet raw in this business. But he would not meddle with the Lords 'till you are well informed what you may, and what you may not do. He was ever for a moderate course with the Lords. We are told how terrible the meddling with this matter might be, but he knows not the terror of it in the enquiry. Would have you proceed to the business of the day, and inform yourselves better in this matter.

Mr *Powle*.] He has seen a copy of this Order from the Lords, for the commitment of Dr *Cary*. It seems

a matter of that weight, that, at least, as 'tis put, it deserves mature consideration: If this be so, no Commoner of *England* but is at the Lords mercy—This came not criminally yet before the Lords; but they take it originally. Whether Dr *Cary* be criminal is not the Question; but the manner of his condemnation: What a man says against the government in particular is not cognizable, in the Lords House, any more than in another place. This is a crime no more particularly affixed to the Lords than to this House. The Lords examine him, and require him to accuse himself, or some body else. By this means, any thing in the King's Bench may be proceeded upon in the Lords House. In this he would show that we are only upon the defensive part, and that we seek no occasion of difference with the Lords. 'Tis our desire that the precedent of 21 R. II. may be prevented. This is so tender a point, that he would not let it go without a day to consider it farther; and would not have the world think the House so cold in so great a matter. He would appoint to-morrow to consider it farther.

Mr *Sawyer*.] Shall any Member here undertake to know what the Lords do? You have only the bare information of this matter before you of one Member of this House, and no more.—He's much afraid to give countenance to things of this nature. One book now abroad concerns us. It calls us "traytors and rebels for meeting as a Parliament," and either House may enquire into such incendiaries. You passed the same sentence upon Mr *Howard*, the last Session; he would not say he did or did not write the letter, and you took it *pro confesso*, and committed him to the *Tower**. He would have this matter regularly before you, before you proceed any farther, and would now go to the Order of the day.

Lord *Cavendish*.] If this be a crime against the government, as is alleged, he would know whether the Lords can judge it without a Jury.

Mr

* See Vol. III, p. 353.

Mr *Sawyer*.] Invading our Privileges is invading the government, and such matters may be tried in either House, and this matter more especially in the Lords House. Other Courts may be timorous. In point of Law you punish no man but as he offends against the government.

Sir *William Coventry*.] He will not contend matter of Law with *Sawyer*, but would enter his claim, that we do not take ourselves to be part of the government, for then the government is no monarchy. We are only a part of the legislature; and would enter his claim against any such doctrine to be delivered here.

Mr *Sawyer*.] Explains himself. He acknowledges judgment and legislature, &c.

Sir *Wm Coventry*.] He takes the government to be as much, and more, the ministerial part, as the legislature.

The Speaker.] No cognizance can be taken of the Lords proceedings, unless they come regularly before you. 'Tis the first instance of this kind. You judge them in their judicature of what is not before you. You may do it to any part of their judicature, as well as this. You may else raise what you cannot lay. But he is always for the Privilege of this House.

Sir *Thomas Lee*.] He remembers one man (*Fitton*) punished by the Lords for making application to this House*. 'Tis a proper and regular way, and this matter may be brought before you by information of a Member, as well as by petition from the party grieved. The Question is not about the crime, but whether Dr *Cary* be regularly brought to punishment. Here a man is committed without impeachment; you are the Jury, and all men ought to be tried *per pares*. He thinks this properly represented to you, and would farther consider of it.

Mr *Harwood*.] The Long Robe may be mistaken (*Sawyer*). But he that speaks so often may be, and was, in matter of law, till *Coventry* set him right.

Sir

* See Vol. I. p. 88.

Sir Henry Goodrick.] In this matter we are under so great a restraint, that he knows not how we shall deliver ourselves. The eyes and prayers of the country are that we may have no difference with the Lords. But when he considers the cries of the people, and the King's advice to us, in his Speech, not to entertain differences with the Lords, and that 'tis not a time of day to do it, they that press this, he declares, are no friends to the good of the nation—Explains what he has said, and will make it good. But submits it to the judgment of the House, and farther, whoever proceeds so is no friend to the nation. He has thought of it, and hopes to make it good. If the House should have a Conference with the Lords about this matter, you would have it come regularly before you—He means a Conference upon the ground of the precedent Debate.

Lord Cavendish.] Is sorry to hear so great a reflection from Goodrick upon all gentlemen concerned in this Debate, and upon himself who brought the Debate in. No gentlemen that debated this but are as good "friends to the nation," and would not proceed, as little as Goodrick, to a difference with the Lords; and must say, That from Goodrick was an indiscreet expression.—*He was taken down to Order.*

Col. Birch.] By Order of the House, the words whereby Lord Cavendish was offended must be written down, and asserted. Thinks that Goodrick said, "they that press this business are no friends to the nation."

Sir George Downing.] Citing Birch for reflecting upon the whole Clergy of England, yesterday. ("Their having money dead in their hands, &c." see p. 164,) was taken down to Order by

Sir Thomas Lee.] Gentlemen that have been Long Parliament-men, and yet make digressions to what was said yesterday—

Sir Philip Harcourt*.] The business is of a great nature, and he would have you, Mr Speaker, declare, by

* Father to the Lord Chancellor Harcourt, and great grandfather to the present Earl.

Order, whether the words are not to be asserted, and written down, before any explanation be admitted of them.

Mr *Garroway*.] *Goodrick* owned his words, and brought them to his own explanation. Your Order is, "those words that gave exception ought to be written down," and you debate whether those words were said, or not. But no gentleman can be hindered from the thing being debated to-morrow, or any other time. He believes *Goodrick* will so explain himself as to give you satisfaction.

Serjeant *Maynard*.] He apprehends the words were very bad, but let them be what they will, if you go to censure the person for the words, they must be written down. 'Twas his own case twice, long ago, but he had liberty first to explain himself—For a man may sometimes outgo himself, and it may be every man's case.

Sir *Henry Goodrick*.] He is ready to give satisfaction to the House, and every particular Member. He intended no reflection upon any gentleman. His words were: "He that promoted this difference betwixt the Lords and us was an enemy to the nation." That was his intention, whatever were his words.

Sir *Thomas Meres*.] He doubts that the words were otherwise, but would have them accepted as the gentleman says he intended them. He would have us all bear with one another. We have always borne with the interpretation of the man that spoke the words, and without doubt, "he is no friend to the nation, that promotes differences between the Lords and us." But to go on, he believes that Lord *Carvendish* brings the Order for Dr *Cary*'s commitment, by the Lords, regularly before you; 'tis by the very same method as you went in Sir *John Fagg*'s case. You were informed of it by a Member then, and no otherwise, and the farther consideration thereof was adjourned till *Monday*. To-morrow is the day appointed to consider of Grievances; and this is the greatest. He will
not

not speak upon this Order 'till it is well searched into. No man here, he believes, values Dr Cary in prison, neither the man nor the punishment; but the manner of laying the punishment is what we have reason to except against. This is not the Privilege of a particular Lord.

Lord *Cavendish*.] Called Meres to Order, viz. That *Goodrick* meant particularly what he said to reflect upon himself, and not generally speaking.

Sir *William Coventry*.] What he heard *Goodrick* speak was, "That they are no friends to the nation that promote a difference between the Lords and us." We have great reason, in these cases, to give grains of allowance to one another. In ancient times but a few persons spoke in the House, and their speeches were ready penned. The powder and shot was ready made up in cartridges; ready cut and dried, and a man had then time to think; but now we speak on a sudden, and therefore would have some grains of allowance given.

Lord *Burleigh**.] He thinks that *Goodrick*'s words particularly reflected upon Lord *Cavendish*†; and would have them set down.

Sir *Henry Goodrick*.] He should speak much against both his obligations and judgment, if he intended Lord *Cavendish*, in what he said, or any other gentleman, in particular.

Sir *Thomas Meres*.] He is glad that an end is made of this matter, as to Lord *Cavendish*, who, he thinks, has satisfaction from *Goodrick*. But he would consider the manner of this judgment (upon Dr Cary) of the Lords, on a Commoner. We ought to have as great and as good a Privilege as the Lords, but would not go on this, without being extremely clear, and perhaps we may find out more Privilege than we know of al-

* Son of the Earl of *Exeter*, to which title he succeeded, on his father's death, in 1687. He died in *France* in 1700, and was grandfather to the present Earl.

† This Lord married Lord *Cavendish*'s sister.

ready. Will press no Question, but that the matter stands fair for another consideration.

Serjeant *Maynard*.] If there be public breaches on the liberty of the people, it is not strange to enquire into them. He fears this commitment of Dr *Cary* has raised more dust than can be laid. He must come into a Court where he may be indicted, and no man must be accused but by writ "from some of the King's Courts." 'Twill be one Question, Whether Dr *Cary* has offended before the Parliament sat, or since; in or out of Parliament? If a man be brought here for words spoken against this House, will not you commit him? If a man contemns any Court, that Court may fine any man. If the matter will hold you may go on, else 'tis a very ill thing to contend in this matter. If he be committed for contempt of an Order, see what it is; and then consider whether you will go through or not.

Mr *Garroway*.] If Dr *Cary* be committed for contempt indefinite, and we desire to know the cause from the Lords, and they tell you 'tis for a breach of their Privilege, then there's an end of it. The King, in what he said of avoiding controversy with the Lords, never intended thereby to cut you off from your just Privileges. No man will think so irreverently of the King. And you, Mr Speaker, may go out of the Chair, without any Question, in this matter, and he will move it again when we are better informed.

The Speaker left the Chair, and Sir *Richard Temple* took it for the Grand Committee for raising the 600,000 *l.* for which brandy, and *French* linnen were proposed. 'Twas privately murmured "that there was no necessity for raising this 600,000 *l.* but because 199 voted it. *Necessitas necessitatis, necessitas necessitata.*"

Mr Secretary *Coventry*.] Asserts that nothing you have laid a tax upon, either Commodities, or Law, &c. ever answered two thirds of the value intended. He hears the unlimited demand in the King's Speech objected to. The King has commanded him to tell the Members of this House, "that he desires the

continuation of the Excise but for three years; his charge for the interest of the bankers money, and that which the rebellion in *Virginia* has occasioned him, he desires may be left to the consideration of the House, whether they will proceed in it now, or at another time of the Session. He presses nothing but what is necessary for the present affairs, and he thinks this 600,000 *l.* will have the most certainty in being raised by an eighteen months assessment."

Sir *Thomas Meres.*] He takes *Coventry's* Speech to be a Message from the King, but would know, whether he will press for no more, this Session, than the 600,000 *l.*

Mr Sec. *Coventry.*] To continue only the additional duty upon the Excise for three years, and the 600,000 *l.* for shipping.

Sir *Thomas Meres.*] He thinks our lands can bear but half this sum, but where shall the other 300,000 *l.* be raised? God help *England*, if that sum cannot be any way raised but by Land Tax, which was never made for building ships! He foresees war, and knows not whether we may be the aggressors, or not; and would save land for that occasion. If you would have money where 'tis not, you'll pull mens skins off, and put them into jails, and more he dares scarce think of. Abroad they hear what we do in this House, and, land so loaden, what will they say? That our land is full charged; and they will take their measures accordingly. One hundred sail of ships are taken by the *French*, and we send Ambassador after Ambassador, and they give us promise after promise, and they keep our ships, and they lose their voyage, and half their wares is spoiled, and no remedy to be had. Land is our sheet-anchor, and the last thing to be taxed. He would not show the nakedness of his mother, *England*—But you must know our poverty at last; but he allows there's reason for 600,000 *l.* because 'tis in order to provide stores, and furnishing thirty ships. But to this, in Land Tax, would give not above 300,000 *l.* He cannot go along with you for any more, Col.

Col. *Birch*.] He did never say that the imposition upon foreign linnen would raise this sum. This touches him, before all the Commons of *England*, that he intended not to raise this sum. Linnen, Callico, Brandy, and Wine was proposed. It has been thought the Wine would have tasted of the money, (the imposition upon it.) But still 'tis swallowed down; men must have it. If a man be habituated to drink a quart in a morning, he will sell his own estate twice over, and mine too, but he will have it, if he can. This money, the *French* have of us for Wine and Linnen, &c. that a million, would raise an Army. He has drank Port Wine, and would let that come in with little load upon it at the Custom-house. He pleads for your safety, and to weaken your enemy. Here is city against city. (*London* and *Westminster*.) A city without a city. *London* desires ease in their taxes. In *London*, houses that formerly let for fifty pounds a year are now fallen to fourteen pounds. They can sooner let forty houses in the new city than five in *London*, and the rent well paid too. And there is above fifteen times as much upon *London* in taxes, as upon this new city. Would know a reason why now a Land Tax? Unless we would lay the nation low by it. Why those new buildings should not pay 100,000*l.* then, he knows not. He does not believe the nation able to pay it. Tenants will either throw up your land, or you must take corn for rent, and this vote will sink land two years value. If you'll not put the whole Tax, put at least half of it upon some of the ways he has proposed, and spare land.

Mr *Waller*.] Hears building of ships spoken of, before our neighbours are at leisure to hinder us. And 'tis said "to be more for your honour not to lay this money now upon Land Tax, but to reserve that for the last." But our neighbours will think us in earnest if we go by Land Tax, and they observe us. Will you try an experiment on other things, now the nation is in danger? Queen *Elizabeth* cared not at what charge she

she ruined her neighbours; and now the King of France has burnt all the *English* cloth, &c. He has seen money denied here in former Parliaments, and the nation ruined by it.

Mr *Garroway*.] Some of *Birch*'s arguments, as Callico, will require Debate, concerning the *East India* Company—And that thereby we may be charged in what we buy, and by consequence 'twill be a Tax upon our Lands. Still he is troubled for the additional duty of the Excise, given to pay debts, or other extraordinary occasions, and so 'tis brought into a Revenue, and continued to perpetuity, which he is troubled at. He will give his vote for Land Tax, to be the freer to give his negative to the Excise.

Mr *Powle*.] Suppose you lay Land Tax, and Excise, both at a time. Land will be charged full as much as it can bear. Fines that are imposed upon persons in Courts, are with a *salvo contentemento*. So should Taxes be. If you charge land so much before hand, what will you have to charge certainly upon an emergency? At *Rome* anciently, and now at *Venice*, the Treasury of *St Mark* is not to be touched but upon extraordinary occasions. He takes this to be so of Land Tax. And fifteenths, and tenths, were formerly in nature of Land Tax on every county and town, and by our ancestors very carefully granted. Suppose we should have an invasion, or foreign war, which way shall we turn to defend ourselves? He sees not how this can be easily answered. 'Tis possible to raise money, in time of peace, upon trade, and not possible in time of war. And 'tis to no purpose to think we have safety in building ships, unless you keep something untouched, and not to lie open these eighteen months, loaded with Land Tax and Excise. He would have satisfaction in this.

Mr *William Harbord*.] He remembers that the late Lord *Sandwich**, a man of great worth and honour,

* Vice Admiral of *England*, killed in the great sea fight with the *Dutch* off *Southwold* bay, May 28, 1672.

and true *English* principles, in discourse with him about the *French* growth, said "*Will*. If you will defend me against the *French* at *Whitehall*, I'll defend you against the King of *France*." Nothing can support the nation, but trust betwixt the King and his people. Therefore he would absolutely trust the King in this; and he is for a Land Tax.

Sir William Coventry.] He thinks not that the King of *France* will put a stop upon his linnen and wine, if we were at war with him. 'Twill put his people in a mutiny. 'Tis better for us to deal with him now, whilst he has other business upon his hands—Unless you make his cloth dearer to other men than yours, you'll never nurse up your own manufacture. Wool was formerly with us at forty shillings a tod; 'tis now not nine shillings. This will turn all land into tillage, and then spoil the land for wool again. The landlord must stay for his money, till the tenant can get better markets, but the Tax-gatherer must be paid at his time.

On a division of the Committee, whether this 600,000 *l. &c.* should be raised by Land Tax, &c. it was carried in the affirmative, 214 to 165. [And agreed to by the House.]

Saturday, March 3.

Sir Harbottle Grimstone, Master of the Rolls.] Moved that he might have leave to bring in a Bill for repeal of the Statute, &c. of wages for Knights and Burgesses of Parliament, and desired it might be in particular for *Colchester*, the place he serves for. For a Writ had gone down from *Sir John Shaw*, (his fellow Burgess) to receive his wages for service done in Parliament*.

Mr Williams.] The Statute of Limitations will cut off all the Wages, but of the last six years. He is against removing old Land Marks—What's an evidence

* *Mr Marvell*, who was Member for *Kingston upon Hull*, is said to have been the last who received these wages.

betwixt man and man, electors and elected, he would not remove. He is not for imposing any thing upon Corporations ; he will trust his own Corporation, but not every little Borough. The Wages will not be due for a whole year, but for the days only that we sit here. He would trust the generosity of the Members, in this of their Wages, and not have a Bill for it. He has already released his Wages.

Mr *Powle*.] The Statute of Limitations cuts not off a debt, but from six years after 'tis due ; and this is not due till the Parliament is ended, and therefore not cut off by that Statute. *Williams* says, " That Wages are not due but for the days you sit here." But for those that come from *Cumberland*, and such remote places, they have had sometimes fourteen days allowed them, and to all the Members, *morando, redeundo, eundo*. And if Wages be demanded accordingly, it will ruin many poor Boroughs. We are now estimated to have sat in this Parliament 3000 days, which will be 600*l.* and the Question is, whether Wages are not due in Prorogations, as well as Adjournments. For the ill use that may be made of this, when this Parliament is at an end, he would have Wages cut off. For debts, when they are grown old, are very heavy when paid, and consider how we load them now by this Tax we have granted. But he would have this discharge of Wages for no more than what is already incurred, and not forward.

Mr *Sawyer*.] You have been offered the Statute of Limitations. That of Wages is not an Action, but in the nature of a judicial Writ, unto which the Statute of Limitation is not to be pleaded, being matter of Record. Some Wages have been already paid, and some persons are but lately come in. But he looks upon it for the honour of the House, that, where Wages have not been received, we may imitate the Statute of Limitations—Excepting the two last years.

Mr *Boscawen*.] He knows not why *Sawyer*, that has been here but two years, should give away his Wages that

that has been here sixteen years. 'Tis generally promised at Elections, in Boroughs, to serve freely, and why an Act should not be to confirm those promises, he knows not. He thinks it worthy your consideration to put the Boroughs out of fear. For hereafter they will chuse their own Burgeſſes, blue aprons, and gentlemen no more.

Mr *Williams*.] He offered only the Statute of Limitations. *Sawyer* ſaid, "That the Writ for Wages is a judicial Writ, in nature of an execution;" but he is miſtaken. 'Tis a *distringas* at Common Law. If a Member be abſent the whole Seſſion, he cannot bring his Writ of Wages; unleſs he be here upon Record, which ſuppoſes his preſence here—'Tis not in the nature of an execution.

Lord *Cavendiſh*.] Interrupted him, and deſired the Speaker to declare both *Sawyer* and *Williams* to be in the right, (*jocularly*).

Mr *Sawyer*.] No averment can be againſt a Record, and this is in the nature of a Record.

Mr *Finch*.] He is not for this Bill, though thus magnified to you. All Wages are limited to *eundo, morando, redeundo*, and expreſſly limited by the Writ to levy it. By 6 *H. VIII.* "No perſon that departs from Parliament without leave of the Speaker and Houſe, entered firſt into the Journal, ſhall have his Wages." And *Prynne's* Register of Writs goes ſo far as to prove attendance here every day—But by this Bill you take away from every gentleman an opportunity of obliging his Corporation—Therefore he is againſt the Bill.

Mr *Waller*.] A tacit innovation this Bill is upon us, Originally the Boroughs were able to pay Wages to their Parliament-men, &c.

Sir *William Thompſon*.] Intimated, that the City of London paid Wages formerly. He has received no Wages, though the City is able to pay them.

Mr *Love.*] He never received any Wages from the City, nor demanded any, because he thinks he never deserved any at their hands.

Mr *Swynfin*, upon Mr May's Motion for releases of Wages to the Boroughs under our Hands and Seals, said.] He knows not how it can be done to Counties, or Boroughs, nor how they are capable of receiving such releases. 'Twill best show the inclinations of such gentlemen to release them, by giving his consent to a Bill for taking them away.

A Bill was ordered to be brought in accordingly.

Monday, March 5.

Sir *Harbottle Grimstone.*] Moved that instructions might be given the Grand Committee for appropriating the Customs for building of Ships only. There may be irregularity in the Chair, as well as out of the Chair. As the Order is penned, no man has liberty, at the Committee, to speak of "appropriation of the money." He thinks it as regular to think of "keeping" his children, as of "getting" them; and would have this money appropriated, that hereafter we may not be charged with more upon this account. If we see no end of paying, it will be a great discouragement to the people to pay this. This being a land charge, to pay for ships, a thing unusual, he desires the freedom here to debate the point, as well for keeping and maintaining, as for building these ships.

Mr *Pepys.*] He thinks it will lessen the "pleasure" of getting children, to think of the "charge" of maintaining them. There is so much affinity between building and repairing ships, that at the same time we do the one, we must do the other—There is building new, and repairing old. Hands are doing, *John, Thomas, and Ralph, &c.* But not an old and a new work on the same place. He would remove the thoughts therefore of doing both together; repairing old ones, and building new.

Sir

Sir *Edward Baynton.*] 'Tis regular to move a necessary addition of instructions to the Committee. 'Tis as regular to maintain as increase ships—And he would have that the instruction to the Committee.

The Speaker.] 'Tis regular to make an addition to the instructions, but not one contrary to Order.

Mr Secretary *Williamson.*] He thinks the Motion not regular. If the Question were of an Order-making, then 'tis a regular Motion, but this Order is already made.

Mr *Swynfin.*] The Order is “for the Committee to consider heads for the Bill for raising Money, &c.” The Committee were forced to come to you for instructions to consider the whole matter of money. To prevent that, this instruction is now desired. In this Session he has seen more difficulty in these things than in any other before. When the sense of the House is known, and divers gentlemen would come fairly to a Question—But of late we interrupt one another, that we seldom come plainly to a Question. The Question of the Excise might have been fairly determined the other day, without spending more time.

Sir *Thomas Clarges.*] He hears that the present fleet is in a very ill condition, and that makes him press the reparation of it. Though we be weak and poor, yet, to be defenceless too, would be sad; which we shall be, if our old ships are not repaired, by appropriating some of this money to that use.

Lord *Cavendish.*] This Motion is not heterogeneous to the Bill, as you are told. Would gentlemen have 600,000 *l.* more given for that purpose the next year, and for shipping, the money to come out of our land? The last Session we ordered this very thing to be tacked to the Bill. He never knew but, when farther instructions to the Committee were moved for, they were put to the Question.

Mr *Williams.*] He pretends not to know the Orders of the House. He is but young here yet. We are now to consider every necessary ingredient to ac-

comply the end of the matter we are now upon. We are not upon niceties—Would speak like sober sedate men. 'Tis his sense that this instruction should be one head of the Debate.

Sir George Downing.] Securing part of the Customs for support of the Navy is natural, and so are instructions to the Committee; but they must be what is natural to the Order. He shall ever be against that conjuring word of tacking one Bill to another. He shall look upon this as a subverting of the fundamental government of King, Lords, and Commons, to tack Bills.

Sir Thomas Meres.] “Put the case, says the Speaker, that Popery and the Fanatics Bill should be tacked together.” If ever he was of opinion that *England* must have a fleet, 'tis now, and this Motion of the Customs is for it. He will never contradict the Speaker, in point of a Question, for he will have what Question he pleases. But he has liberty, with others, to argue his matter upon what Question soever the Speaker proposes.

Mr Sawyer.] Takes great exception at what *Meres* says. For a gentleman to say, “Those that are for the Speaker's keeping the Chair, are for a Navy, and they that are for his leaving the Chair, are not.” This is unparliamentary, and a reflection upon the whole House.

Sir Thomas Meres.] He was going to say so indeed, but *Sawyer* would not let him, and he would have given reasons for it too, when he had said it.

Mr Secretary Coventry.] Thinks what *Meres* said is a reflection upon the House, “He that would have no fleet would have no King.” This is a new way of assurance, to distrust the Crown. Because 'tis his mind, it must be every man's. When a thing may be done directly, to do it obliquely is a new thing. The proper Question is, Whether the Speaker shall leave the Chair?

Sir Thomas Littleton.] Would you have the Question plainly, Whether the Committee shall proceed in the manner of appropriating the Customs?

Sir

Sir Edmund Jennings.] This Motion seems as if we repented of what we had given the King.

Mr Sacheverell.] Remembers that money was given for paying the King's debts: Would know, if so great a stress be laid upon that word "appropriate" now, why the debts were not paid then? He fears the money may go in the same way it formerly did, when 'twas not appropriated.

At length the Speaker acknowledged an omission of "appropriation" in the Order.

Sir William Coventry.] Would not have the Order mended, without a Question. For the Clerk may say, 'tis usually done in the House, and he may do it at his own house, which is a thing of dangerous consequence.

Sir Thomas Lee.] He believes the omission was in the Speaker's pronouncing the Orders, and not in the Clerk's miswriting it.

The Report from the Grand Committee was, that a Question arose for addition to the Question of appropriating the Customs, and the House's direction was desired.

Sir George Downing.] He takes it for a fundamental in our Government, that the legislative authority is in King, Lords, and Commons. The King's negative voice to Bills presented to him by Parliament, is what you fought for, and by your blood and estates you have asserted this; shall it be now taken away by a side wine? Look to the ways of passing Acts, they are direct. *Le Roi le veult, le Roi s'avisera, &c. Le Roi remercie les Communes, &c.* To a Money Bill, the King has nothing in his mouth and heart but thanks. When this Clause of appropriation of the Customs is tacked to this Bill, the King cannot give a free answer to such a complicated Bill. The King is to have his free assent, and if so, where is the throne left free to give a free answer to this Bill? And so the King is put upon extremity, either to have no money, or else all Bills must pass. Where will this end? Private Bills, at

this rate, will be hooked into Money Bills, or entails. He has read books written and printed, of the state of the difference between the King and the Parliament; he means the usurping Parliament 1641.—The honest money the King coined at Oxford was, *Pro religione Anglicanâ et libertate Parliamenti*. Whoever takes away *libertate* from the King, takes away *libertate* from the Parliament, and whether this tacking the Clause of appropriation does not so, he leaves it to you to judge. One thing in the world this House is always fond of, viz. frequent meetings, but he never found good by going by an ill way to obtain a good end. The Long Parliament was not to be dissolved without their own consent, which was obtained of the King by a thousand canting words, and that power they obtained, tacked to a Money Bill. But what became of this? You were forced to make it treason to name the being of that Parliament. He appeals whether you have not repealed the Act for Triennial Parliaments, before 'twas ever executed, as contrary to the King's royal dignity, branded by you. The just Prerogative of the Crown is as necessary as the being of the House of Commons. He takes tacking to be of the most mischievous consequence imaginable, and prays no tacking may be to this Bill; but that of appropriating the Customs may be by another Bill.

Sir Thomas Lee.] If this Bill be (as 'tis said) "against the King's negative voice," he is against it as much as *Downing* is, or ever was. This of tacking, &c. has been frequently done. Can the King take money of you, and not with your condition annexed? The King may reject both the money and the Clause of Appropriation, and there's no losing his negative voice.

Mr Weld.] Saying something that his country that he came from, would thank him for his service,

Mr Richard Newport.] Desired to know what country he came from? (Weld being lately made Commissio-

ner

ner of the Treasury in Ireland, and some others.) He served here for all *England*.

Lord *Cavendish*.] More countries will thank *Newport* for his services than *Weld*, who said, "he served here for all *England*."

Mr *Sawyer*.] These reflections show 'tis time to leave off this Debate, and would have a particular day appointed to go on with it.

Mr *Vaughan*.] The King's negative voice is no more impeded by this Bill than it is in *Magna Charta*. In all *R. II*, *H. VI*, *H. IV*'s time, scarce one Money-Bill passed but the Petitions of the Commons were tacked to it. It happened, that, in the Long Parliament, there was an attempt against the King's negative voice.

The Speaker.] In *H. VI*'s time Bills passed all in one Chapter, and the King passed what parts of the Chapter he pleased. But now the King takes all the Act, or none.

Sir *John Morton*.] Now you speak of "tacking," he would have the Speaker "tack about," and put the Question.

Sir *Thomas Clarges*.] *Downing* tells you, "he knows not how the King could pass Bills; if thus complicated, there may be entails in Money-Bills." But the House, when they passed the Bill for the Customs, did it in trust and confidence of the King, without any penalty upon those who diverted that money, granted for the guarding the seas, to any other use. We now would only explain that Act by this Bill.

Sir *Richard Temple*.] Formerly, the King might make what kind of answer in Parliament he pleased. But since, an Act was made that the King should make a direct answer to our Bills. All Revenues are Grants of the Commons, but the Customs and this 600,000*l.* are not the same Grant. No doubt but you may put what words you please into a Bill; but knows not how you can govern this by any addition. 'Tis not probable to be done in two lines, here being appropriation granted
in

in another method, and therefore impossible to be done without another Bill.

Mr Powle.] He is fully persuaded, that, if all the money be spent for the use and intent it was given, the Navy cannot want, but will be in a flourishing condition. We find it unsupplied, and therefore the King has resort to his subjects for aid. We being so kind as to supply others miscarriages, we should not do right to them that sent us, if we prevent not the like for the future. This House was never put to build ships, since tonnage and poundage was given the King by Act of Parliament. As to precedents, he only will say, that if we go to precedents of former ages, they did not consider giving money till Grievances were redressed. The King's answer to Money-Bills and Subsidies is, *Le Roi remercie ses bons sujets, le veult*; which is a compliment and accepts it, and is a double answer from the King. Never was any age, that good Bills passed without the help of money. There is jealousy in mens minds, and in his own too, that you take tonnage and poundage, and yet cast the burden of building ships upon the people. If pensions, farms, and petty-farms of the Customs, be in private hands, the King may be able to avoid all these pensions no better way than by this Clause of Appropriation—And no otherwise done than in former times, unless you will for ever put the charge of building ships upon the House of Commons.

Sir Edward Dering.] He takes the Question to be tacking this appropriating Clause to the Money-Bill. The addition must be proper. Where the subject-matter is not coherent, it will be an absurdity in law, and will be so in this Clause—Would, therefore, leave it out.

Lord Obrien.] Would know whether the King of France, when the tonnage and poundage was granted, had as many ships as he has now?

Mr Sacheverell.] He moved not this Clause, but a Clause to be in the Bill for that purpose. 'Tis said to be "a new thing," and "that it takes away the King's negative voice." Either gentlemen have never read it,

or

or forgot it—'Twas asserted, that the King had not that right, and 'twas an abuse to use it, and 'twas left—Matters more foreign than this—'Tis a Petition of Right not granted from the King—But from the King making use of an authority he had not power to do, being the right of the Commons.

Sir Edward Baynton.] He takes this to be a fine crude way of arraigning the miscarriages formerly committed, by appropriating the Customs for the future. 'Tis said to be foreign to this Clause—Before the troubles, the Long Parliament passed a Bill for 400,000 *l.* and many Acts that would determine with the Session about 1656, untill otherwise ordered by the Parliament, determined.

Sir Joseph Tredenham.] 4 *H. VI.* given the King in lieu of a tax, which was supposed not legally given. He knows no precedent for tacking, and would make no new precedent this Parliament.

Sir Henry Capel.] If the Question be carried in the negative, whether then shall it not be the next Question, for a Bill, by itself, for appropriating the Customs to the use of the Navy?

This Motion, 'twas said, spoiled the Question.

The Question being put, That tonnage and poundage shall be appropriated to the use of the Navy, by a Clause in the Tax-Bill, it passed in the negative, 175 to 124*.

Tuesday, March 6.

Sir Charles Wheeler made a Motion that the House might receive the Sacrament together this *Lent*.

* The Votes of the Committee, which were agreed to by the House, differed only in the number of ships from those of the former Session, 1st, That of the thirty ships to be built, there should be one first rate, not under 1400 tons, nine second rates, each not under 1100 tons, and twenty third rates, each not under 900 tons. 2^d, That the commencement of the Supply, not exceeding 600,000^{l.} should be at

Lady Day next, and be payable quarterly. 3^{dly}, That the thirty ships should be built in two years, to be accounted from *Midsummer* next. And, 4^{thly}, that this Supply should be made payable into the Exchequer, and be appropriated and applied for the building, guns, rigging, and furnishing of the thirty ships, and to no other use, &c.—And a Bill was ordered in pursuant to these Votes. *Journal of the Day.*

Sir

Sir *Thomas Strickland* sent a letter to the Speaker [in answer to the notice which the Speaker had sent him by Order of the House] *See this Vol. p. 102.* by way of excuse for his non attendance in Parliament, &c.

Col. *Titus.*] Before you vote *Strickland* a *Popish* Recusant, that you should swear him, is the Question proposed. Should any man, in this House, say of himself, he is a *Popish* Recusant, would you not vote him out of the House? This gentleman's letter must be entered into the Journal, and will you be afraid to vote him out, when he tells you he is a *Popish* Recusant?

Resolved, That whereas it doth appear to this House, that Sir *Thomas Strickland*, a Member of this House, is convicted upon Record of *Popish* Recusancy, that he be from henceforth disabled from being any longer a Member of this House. [And a new Writ was ordered for the County of *Westmoreland.*]

Sir *John Morton.*] Moved, that Sir *Solomon Swale* should have the same letter sent to him as *Strickland* had.

But the Motion was not seconded, he being not convicted on Record.

In a Grand Committee on Grievances, Mr *Sawyer* in the Chair.

Sir *William Coventry.*] As for "Grievances," he is not very forward to present any. But there is one, above all, that concerns us all to think of. Consider the posture we are in, in relation to *France*, the greatest Grievance that can be to the nation. In respect of *France* and Popery, all other things are but trifles. Popery may be here without *France*, but 'tis impossible that *France* should be here without Popery. Four or five years since, we had the notion of *France's* greatness, but we see the thing not better. We see how prevalent it is. Though the Bishops of *Munster* and *Cologne* were once for him, and are now fallen off, yet he alone can contend with all *Europe*. If he had the talent to move affections, he would not go about it, but will urge this by reasons. The end and purpose of *France's* conquests is not for trade. The whole bent of *France* (a stirring people) is to consider what next thing he'll undertake if he get rest again. Having

ving almost swallowed *Flanders*, will he not begin again? He kept not *Holland*, because *Germany* could not endure it. Probably, he'll employ his conquest to provoke the islands, the continent not enduring him. If once *France* get peace, nothing is so feasible and practicable as *England*; and he can never master *Holland* without first mastering us. Would now consider, though there is a Bill for recalling the forces out of *France*, that that is no plaister for this sore. If *Flanders* be swallowed up, there is nothing betwixt us and *France*. Some gentlemen may flatter themselves that *Holland* will be their next concern, which was lost possibly because their army was no army. All hopes are that *France* may not get a peace. We are not making laws to bind the King of *France*, but he would make an humble Address to the King, "that, as we have a care of his concern, he would have care of ours."

Sir *Thomas Clarges*.] He will wave the matter of the Judges*, till this be off your hands. This "Grievance" of *France* is a matter of so great consequence, that if there be no tendency of redressing it this day, we are lost. He fears the King is betrayed—But still, as we go away in intermission of Parliament, there's some interposition betwixt his goodness and us. The last time we met, the next day after this Debate, we had a Prorogation. At the beginning of those times 'twas said, "that tumult frightened the late King away from *Whitehall*;" but 'twas *Whitehall* frightened him. The Secretary of State, and other great officers, after they had brought the misfortunes on him, left him—He was in *France* in the King's exile, where he observed, that though his Majesty was son of a daughter of *France*, he had but a poor pittance, and they sent him out of *France*. He asked the great men there, Why they used him so? They answered, "'Tis our interest induces us to it." Now when things are thus carried, 'tis dark; and he understands not why this friendship is with *France*. But 'tis said, "this ill usage of the King

* The exorbitant power of the Chancery, (see p. 144.)

in *France* was in the minority of the *French King*." But at *St John de Luz*, at the treaty with the *Spaniards*, where our King was *incognito*, (the *French King* was then of age)—the great minister *Mazarine* would not have so much as a conference with him. He has heard that it broke the Ambassador's heart (*Lockhart*) at *Paris*, that now he could not do the King so much service as he formerly could do the Usurper *Cromwell*. The King of *France's* great fleet is not built to take *Vienna*. Books are written to whisper Popery in the people's ears, and we are weakened by giving money, and our locks are cut off, and the *Philistines* are upon us. Forces are sent over into the *French* service, (some lately taken in *Cornwall*) and lately a ship full of *Scots* taken by the *Ostenders*—He believes the King does not know it, else we could not be so intercepted in our addresses—He knows not what to move, but submits what he has said to consideration.

Mr *Garroway*.] Did not think to have met with this Debate to day. He thought of nothing so good—A few scattered forces now in *France* if recalled will do us mischief, their manners are so corrupted; and he desires none of their company here. Our main business is to keep *France* out of *England*. His modesty is such, he cannot rise to say any thing after Sir *William Coventry*; but he's equally concerned with him, and all gentlemen, in the danger of the *French*. Had *France* gone on to conquer *Amsterdam*, when she took *Utrecht*, 'twould have been too late to talk here; but God Almighty stopped him then. The decay of trade of our woollen manufactures is from *France*, who can impose his in many places. You have been told what he has got besides *Burgundy* and *Lorraine*. But he has conquered his laws, and conquered his subjects. He knows not what he has else to conquer but us. If he calls his armies into *Flanders*, we must be raising men and money to watch him, and have you any time to consider when he has made peace? He will not enter into the King's Prerogative

Prerogative about treaties and confederacies—If you think it worthy consideration to have a Committee to draw up an Address (though 'tis a tender point) whatsoever we do in the world, let us represent the fears of his people of the growing greatness of *France*.

Sir *Thomas Clarges*.] He thinks we are not yet ripe for an Address to the King, before you have more matter before you. It seems, by what Sir *John Knight* said, there was a kind of confederacy—That the King was abused, for as yet there was not so much as a treaty of commerce with the *French*, a marine treaty only. The *French* lay 80 *per cent.* on our woollen cloths, and we suffer it, as if we studied to greaten *France* and were a province to them. Here they lay 52 *s.* upon every ship for a Pass, else the ship is not under the King's protection. They that have that authority, may save us the labour of raising money here, and a bond they extort likewise, and they are to return within a year. These are fine ways to slide into money, and he hopes the merchants will inform you farther of it. Our Ambassador in *France* ought to have precedency of all, Princes of the Blood too, but now every tattered coach goes before him. First goes the King's coach, and then the Princes of the Blood, and lastly the Ambassador. We have had Ambassadors that would not let the King's coach go before them, unless the King was in it. The *Germans* and Princes of *Italy* will not receive a letter without all their titles. Take away the Lord Mayor's trappings, and farewell the government of the City. In omitting those ceremonies you take away Royal Majesty. The Prince of *Ligne* came hither, bravely attended, to visit our King, and now the *French* Ambassador has but a sedan, or a coach and two horses, when he comes to Court. The Chancellor's Speech tells us of "diffidence in the Nation." Surely 'tis from these things, that against the interest of the Nation these things should be. He desires gentlemen would think well of it, and with all our advice help this poor Nation.

Mr

Mr Garroway.] A man that rises up and proposes nothing for remedy, &c. induces a coldness in the thing. As to the "Passes," he agrees *in toto* that the money levied by these Passes is "a Grievance." When the Letters Patent were before you for light-houses for *Dublin*, and but one penny *per ton* was levied upon ships to maintain them, and for a specious pretence of safety, yet you moved the King in it. The King of *France* may give respect to the King's Passes, but suppose he should not. He would know who advised these Passes. Is not your flag gone, &c. and shot at in the *English* channel*? What protection is there in a single Pass?—Consider how we have gone below ourselves in the honour of the *English* Nation.

Mr Secretary *Coventry*.] 'Tis not enough to tell a man that such a disease would kill him, and not tell him what would help him. As to that of "Ambassadors coaches," he never heard of exceptions against Ambassadors for living high, or living low. He would be a strange Ambassador to go with six horses, when our King goes in the streets but with two horses. But as to the "places and rank of our Ambassadors in *France*," Prince *Rupert* takes place of all Ambassadors here, and those of the King's alliance do so too. As to that of "Passes," complained of, the *Algerines* principally live upon piracy; every thing they meet with they take if they can; and upon the peace lately made with them, this of Passes was agreed, for safety of our ships. For "the Passes relating to *France*"—This on treaty is altered. They suspected *Holland* goods on board some of our ships, and they were at the Admiralty taken out, and the ships restored. You alone are friends to all the world, and, by virtue of that Pass, your ships go free, and you have the trade of all the world. Would be loth the Committee spent time to show the terror of our neighbours, and not propose any remedy for the safety of the Nation. Would be glad to have any thing proposed, and shall heartily concur in removing those fears.

* See p. 205.

Mr *Vaughan*.] We are told of "conquering *Flanders* with *French* hands." Pray God it be not us with *English* hands! He would not have the King intrench upon any league he has made, but would have *France* know, that the King of *England* understands when he is safe and when he is not safe. Whilst we are building ships, possibly such a Message may be sent us as Queen *Elizabeth* sent to him when he built but a galley, "that if he persisted she would burn it." Would therefore move the King in two Addreses, that the *French* may not draw too near us, and that he would not mediate at *Nimeguen*, unless the *French* would secure *Flanders* to the King of *Spain*.

Sir *William Coventry*.] He proposed the thing so raw, that he had not digested it. But from what gentlemen have said he will propose something. If the Address to the King be of less moment, and if more things of less consideration with your safety be put in, it will not have that weight upon it as if it were single and unmixed. He would not have us engage in a War, yet not suffer ourselves to be devoured for fear of being devoured. We are in the best posture now for it that we can be in, but knows not how long we shall continue so. The King's own goodness, and those about him, will suggest from his thoughts what is not fit for ours. He would therefore only represent to his Majesty the evil consequences to *England* of this loss of *Flanders*, the *French* King being so great in his neighbourhood; and that we cannot but apprehend danger, and would humbly propose to him to think of the danger, and enter into such alliances as may secure us from it.

Sir *Thomas Littleton*.] As to this particular of the preservation of *Flanders*, he is far from advising the King to engage in a War. But would not leave the King in the lurch, and he believes the Nation and the House are of that mind. He would have the House moved to nominate a Committee to draw up an Address to represent to the King the growing greatness of the *French* King, and not to promote any treaty but what

may tend to the restitution of the *Spanish Netherlands*. This meddles not with *Lorraine* or *Burgundy*, but only with what presently concerns us; and there are precedents innumerable for it, of such Addresses. He moves for this, or some such thing.

Mr Secretary *Coventry*.] The *Spanish* agent presented a Memorial to the King, by his hand, representing the condition of the *Spanish Netherlands*, and "that his Master would join with the King in any thing fair or foul." The King answered, "he had endeavoured to prevent it by former treaties. If *France* be so powerful (as you are told) he would have *Spain* make a peace in time." To this the Envoy answered, "the last condition he could propose was the *Pyrenean* treaty, wherein was the restitution of the *Netherlands*." To which the King answered, "that next to his own interest, nothing was so considerable as the loss of *Flanders*." *England's* mediation in reputation goes a great way. But the King and the House meeting and parting of two minds, 'tis but compliments in great letters, and no more. Should the King demand restitution by the *Pyrenean* Treaty, which comprehends *Lorraine*, *Burgundy*, *Flanders*—The *Nimeguen* Treaty—Whilst you are arguing, a Treaty may be made somewhere else. The King must be first considerable here. He that has neither forces nor ships, cannot avoid being inconsiderable. But when you go upon so great a thing as this, and when you provoke such an enemy as this, a bare Address will not do it. Every man is not fit to be a constable that can bid a man "stand, in the King's name." Put the King into a condition to make him so considerable as to do this work, and then 'tis time to make this Address.

Mr *Mallet*.] Knows not why we should have so much tenderness for *France*. He knows not the benefit we have from them, but that they fetch away our horses and our men, and we have nothing from them but wine and women.

Col.

Col. Birch.] Can any man think but that while *France* is on the other side the water, and can land with 80,000 men, we, though in no War, yet must prepare? When a Nation has a fashion and a language as we have, no man that loves either his religion or country, but must think of this. Secretary *Coventry* has told you of “our unfortunate meetings here”; but how long has that been? Since we have taught *France* to be so great; and when those that did it should have been punished, the Act of Oblivion pardoned them. But he would make the best of what’s before us. ’Till there is a confidence between the King and his people, we are a pitiful people. And can any thing be more proper for us that represent, as well as those represented? A hundred out of ninety nine of the Nation, are of a mind in this matter. But should *France* make a sudden Peace, what will become of us? But will not such an Address make the poor Confederates take heart when they shall see the King and Parliament both of a mind? He speaks the sense of *England*, and were it for his life would take this way to make us all of a piece (unless something lie hid) and to preserve religion too—He would not speak more than he can do. Therefore, he’ll say nothing of *France* leaving *Flanders*, but only to move the King to enter into such alliances, either the *Pyrenean Treaty*, or some other; and he hears we may have what we will. But if we dare not speak now we have time, what will become of us if, by the Treaty at *Nimeguen*, they should make Peace?—This will let *France* see that the King and Parliament are all of a piece, and that if he fall upon the King the Commons will stand by him. He is for the safety of the Nation, and not for a War, and moves that the Committee may move the House, that an Address be made to the King to enter into such alliances as may be for the honour and safety of the Kingdom.

Mr Secretary *Williamson*.] This is a tender point at all times, but in this conjuncture of affairs most of all. As to that of “Treaties” spoken of, the King has de-

clared already more concern for *Flanders* than any of the Mediators have done besides. There are but two ways of preserving *Flanders*, either to preserve what is left of it by a Peace, or to get again what is lost by War, and this third way you are going will rob you of one of them two. If you put the King out of the character of Moderator at *Nimeguen*, 'tis a tender step to put the King upon—War, or Peace, by alliances—Which made the movers first stop upon it. If the King should make alliances with all the Confederates, 'tis with he knows not whom, nor against whom, nor for what—Such is the Art of those you treat with, that nothing is more spoken of on this side the water, than carrying on the War, and on the other side, nothing less. If you go farther in this matter than representing your fears, you go the most dangerous step in the world.

[Mr *Garroway*.] We are from the Bar advised “tenderness in this matter, and to leave it to his Majesty’s care.” But Peace is the thing we fear, ever since we gave 2,500,000*l.* and the Vote of “lives and fortunes,” and we had nothing done for it. That’s what I fear—Peace we fear, and War not. May not we pray the King for a league, without saying with whom? 'Tis said, “our ships are not yet built, and we have given but 600,000*l.* and what condition are we in to declare ourselves?” No more are the King of *France*’s built, and when they shall be built they cannot man them. To leave this off, we are in the condition *Harbord* told you “of the *French* at *Whitehall*.” We have now opportunity to get such alliances as are fit for us, and I would not have you let it slip.

[Mr *Waller*.] No man can love *England* that seeks not after the balance of our neighbours, and we ought to express it in this Address to the King. Our great interest (and no man but is concerned in it) is to be governed by our laws—We see, *France* can build ships in War, and we can scarce do it in Peace. He can do what he pleases, and impose what he will, but I like not that here. By our public law the King has his power

power of making War and Peace, and we of the purse, and we advise treaties that we have no light in at all.

Sir *Thomas Meres.*] Does not doubt but that in this we shall have the concurrence of the Lords, and that the King can do this without us better; yet the Commons have frequently done this, and the King was never greater abroad than when he trusted his Parliament.

Sir *Henry Capel.*] We all agree to the Address, but we cannot determine the manner. *France* governs by power, and by that will break all treaties. Mention what particulars you will for this Address, we must still trust the King. Therefore I would have the Address to be general.

Mr *Finch.*] Our father is the King, and our brethren the whole country; and he takes it for granted that such an Address as you will present will not intrench upon his Prerogative, but be acceptable to him. The States of *Holland* do not debate so great matters as this in so numerous an assembly; nor *Venice*, though they cannot converse with strangers at the peril of their heads. 'Tis a most plausible advice to the King to enter into Treaties and Alliances, and he thinks it convenient for the King to do it, but not for you to advise him. If you do it, 'tis a kind of obligation upon the King to make these Alliances, it imposes a kind of necessity on the King to make this Peace. He moves therefore to represent the state we are in, to the King, but still to leave the expedients to the King. Not that the King knows it not already, but this will be the effect: The King may see the unanimity of all his people, and it will be an encouragement for the King to act vigorously and strenuously. No man can represent the state of all the world here, and, with deference, you are not competent judges. Leave it to the King, whose wisdom and right it is to preserve himself and you; and he would have a general Address to the King only.

Sir *Edward Dering.*] The King of *France's* fleet is terrible in the *Indian* and *Mediterranean* seas, and what

cost the *Roman Eagle* twenty years to fly over, he makes but one year's work of. Some gentlemen mentioned "Alliances." If they meant general, we have them already, all the world over, and secrecy in them is the best thing we can do; they will else be hindered. He speaks this to the motion made of *France's* restitution of the *Netherlands*. *Hainault* and *Artois* are his, and so were confirmed at the treaty of *Aix la Chapelle*. As the case is, suppose *Alsace* and *Burgundy* should be restored—He thinks we are not fully apprized how things stand abroad, and therefore he would leave Treaties to the King.

Mr *Harbord*.] 'Tis a great argument of *Dering's* "that some part of *Flanders* is confirmed to the King of *France* by Treaty;" but that may be remedied by reducing it to the *Pyrenean Treaty*. The King of *France's* *Surintendant des finances* raised commodities (by imposition upon them) from twenty stivers to thirty livers, in the places we have cambricks from. He is so transported with the *French* thus using us, that it breaks his sleep to see this House made a property to serve turns. He has known some persons press us to carry on War, as much as now they are tender in it, when it is *apropos* to serve a turn, or not. 'Tis said "the King is not in a condition to go through with this great matter." But he hopes we shall be very cautious in giving money for this present War. *Henry VII.* received an aid from the Parliament for the War in *Britany*, &c. which he received and made no War, but kept it for other purposes. He will not say country gentlemen are able to judge of Peace and War, but fundamentals can never vary, and one man may judge of them as well as another. The true balance of *France* and the House of *Austria* is our interest. Some secret matter sure is in it, to alter that maxim. He lays all our misfortunes on the Declaration which the King said he would stick by, but as soon as the King had the matter represented to him, he hearkened to the advice of his people—We are for his honour and safety, and nothing else, and unless we represent

represent something particular to the King, he cannot understand our meanings so well; and therefore moves that we should do so in this Address.

Sir *John Ernly*.] Knows not what is meant by Alliances; with whom, or for what is not spoken of. He hopes there are ways to prevent a separate Peace, that you have heard of, and wishes the King were made as sensible of it as you are, if he be so not already. But he believes he is, and the King has said more to him, of his sense than he can reveal. He would, in general, have the thing moved to the King from you by the Secretaries.

Mr *Sacheverell*.] Whenever Alliances are made, to strengthen that people, and against whom they are ashamed to own, knows not the benefit of such Alliances, unless to carry on an interest contrary to their country's, to serve their own turn. 'Tis told us "the King sees all this we apprehend, and we must not acquaint him with it." But we are necessitated to it now, because no care has been taken of this matter already. When the King sent to ask our advice, whether he should make Peace with *Holland*, or no, Gentlemen then would know whether his Majesty intended a separate peace, or no. We were then told "leave it to the King." But he has observed that ever since, *France* has got up—This niceness seems to him as if men were afraid to lay their finger on the saw; because the Counsellors contributed to this matter—But he would now set a brand upon these Counsellors; else 'tis in vain to address the King. The King is gracious, but these seven years scarce any Addresses have ever been kept. His good intentions have been interrupted by those that help this Alliance up, and he must still take advice of his Council. In this Address Gentlemen are against his great Council, the Parliament, because they are for his small Council, that never did him good. He would not give a penny to enable these Counsellors to make a Peace. He would have the Address to his Majesty, "to enter into such Alliances as may be for the safety and

honour of himself and people ;” and he thinks we are not yet safe. He is not for those Gentlemen, the Counsellors, that they should make this Treaty, who have been so long for the *French* interest—But when all is done, if you secure not yourselves from these Counsellors, this will be all to no purpose.

Lord *Cavendish*.] He has heard it formerly said “that there were Pensioners to the King of *France* in the King’s Council.” He is sure Parliaments have been prorogued, without doing any thing, and money has been refused for our better strength at sea, and now we have had a long prorogation, and officers notoriously known to raise men, for the *French* service, and much countenanced here, at Court. When he considers these things, he still thinks we have creatures and Pensioners of *France* in our Councils. The mischief they have brought upon us must be by some more effectual means than removal of Counsellors ; there is one so partial to the interest of *France*. (*Lauderdale*) And moves for an Address, as before.

Mr Sec. *Williamson*.] The words that fell from Lord *Cavendish* are such as not to be let pass, without that honourable Lord’s explanation of himself. He tells you of “Pensioners in the King’s Councils from *France*.”

Mr Sec. *Coventry*.] He hopes that Lord, as he has told you “the House is falling on your head,” will show you where the rotten timber is; and he hopes he will tell you either of the money or men.

Sir *Thomas Lee*.] Lord *Cavendish* tells you “he believes there are Pensioners in the King’s Councils.” By the consequences, he pointed at the person you desired to be removed, the Duke of *Lauderdale*.

Mr *Garroway*.] Men go out of *Ireland* and *Scotland* into the *French* King’s service. Some do this, and is any man so zealous for the *French* service for nothing? In *Philip de Comines*’s history, he tells you, that *Ld Hastings* in *E. IV.*’s time, took a pension from the King of *France*, but he put it in his sleeve, and would not take it in his hand. Cardinal *Richieu* had embroiled all the world,
and

and people will not do these things for nothing. People have been strangely rewarded by the *French* King, for bare messages into *France*. He knows not what these messages were, but we have felt the effect of them ever since.

Sir *Thomas Meres*.] Before his King and Country shall be destroyed, he will speak. Lord *Carvendish* instances one person, and gave you his grounds for it, &c. You have propounded Alliances, in this Address, and it is the natural remedy to have the Council purged of these persons partial to *France*. If you think you are a Council, and can give no advice, all we do think we are, and are bound in honour to do it.

Mr *Sec. Coventry*.] Some gentlemen are of opinion, that the King should not mediate Peace. The consequence is this, he must make War. The most honourable way, and most convenient, is good Alliances. If you would not have him mediate a Peace, the consequence must be no Peace at all, though without doubt he is in the best Mediator's posture of any Prince—Should that be upon your Journal, barely such a vote of *France* parting with *Flanders*, &c. or Alliances, and barely a vote, without any farther encouragement to stand by the King, it would be of little consequence. The Pope sent a Nuntio into *Ireland* in the rebellion there, who pretended he had brought 100,000*l.* but he brought so many indulgences, as the Pope valued at that rate—He would know which way you'll go—What colour, or look, in the world, will this vote have, when nothing is visibly annexed to provide in reality to support it? He would not have the King recall his mediation, and go on in mediation—Whether Peace or War, whether *Flanders* is to be secured for the present, or Alliances are to be entered into hereafter;—the King cannot know what to say till you declare yourselves.

Sir *William Coventry*.] In this Committee all agree in our danger from the growing greatness of the *French*. We are told of the endeavours the King has used, and how sensible he is of his own interest, and we would have

have it known that the people of *England* rather incite than retard the King's motions in it. But he does not see the necessity of our entering into particulars in the Address. Now should you, at first dash, vote money, and stand by it, you vote a War, and the Confederates will stand upon terms upon it. 'Tis one thing if they propose particulars, and another if we do. Our best markets, probably, will be without particulars. This House has never deserted the King in things, though for a war entered into contrary to their interest; for 1,200,000 *l.* was once so given, though contrary to our interest. It cannot be believed that the House will desert the King for their interest; and when this Address imports not support of trade, but support of wives, children, lands, and estates, the very rake-hells in the streets would contribute towards it, and we cannot go less in this for our interest, than in that contrary to our interest. He moves, therefore, that we may address ourselves to the King to take care of Alliances, to secure us from the danger the Kingdom is in, and the fears of the people; and moves that the Question may be "that the House may be moved to appoint a Committee to prepare an Address to the King, to prevent the growing power of *France*, by his interposition, by Alliances, or such other means, as may secure the fears of the people."

Mr *Sacheverell*.] Other means may engage us in a War—If not by Alliances, it must be by a War.

Mr *Powle*.] The best way for men to get into the right way when they have lost it, is to go back from whence they began. In 1669 the Triple Alliance was made, and in 1670 there was a Supply given to support that Alliance, and when that Parliament was up, there was a journey to *Dover**, and he fears we may date our misfortunes from thence; and he is sure that, after that journey, we made an Alliance with *France*, and broke all our other Alliances, and the *French*

* The King went thither to meet his sister, the Princess *Henrietta*, Dutchess of *Orleans*, and 'tis supposed that the league between the two Crowns for the conquest of *Holland* was then formed.

armies came into *Holland*, and a War ensued; then was a large Supply called for to make the King Arbitrator. Then we were called for, and the House advised Peace with *Holland* rather than War. For two years together our men preserved the King of *France*, and were the gainers of a battle for him in *Alsace**. This confirms men that we are in an Alliance with *France* that we know not of, which makes him desire to go back to the state of affairs in 1669. *Denmark*, *Holland*, and *Spain* were confederate. If *Holland* join with our fleet, there's no danger from *France* of transporting men either hither or into *Ireland*. But if *France* join with *Holland*, we may apprehend it. Our fears and jealousies bear their original date from these Alliances; the root and ground of all our discontents; and this House can never forsake the King in making such Alliances as they apprehend for the safety of the Nation. 'Twill look like distrust between the King and his people to make bargains, but, if such Alliances be made, he doubts not but this House will plentifully assist the King.

Sir *Tho. Lee*.] Some other means are moved to be added to the Address, which may imply a general Peace as well as a War, and therefore he is wholly against it.

Sir *William Coventry*.] He has so much zeal to this business, that he has hardly heard a Question that will not satisfy him. The word "Alliances," may be with *France*, as well as any where else. Therefore he would have the Address "for the security of *Flanders*, and quieting the minds of the people."

Sir *George Downing*.] Will you hazard War rather than lose *Flanders*, in the condition we are in? They may reproach us as they did King *James*, by picturing him in *Holland* with an army of Ambassadors for succouring the *Palatinate*.

Mr *Garroway*, said privately,] That our meaning was a real War, but not a cheat, a pick-pocket War.

* Near *Phillipsburg*, June 3, 1676, English and Scotch auxiliaries, commanded by Sir *George Hamilton*, on the rear of the French army were repulsed and overthrown by the who lost his life in the action.

Sir Thomas Clarges.] The Spanish Ambassador, Count de Fuentes, when the Triple Alliance was made, declared it for preservation of *Flanders* without a War, and he would have this of Alliances in the same method.

Sir William Coventry, upon a Motion for adjourning the Debate, said] If it be adjourned till *Friday*, as is moved, people will apprehend our danger so great that we dare not proceed.

Sir Henry Capel.] He has known, that, in matters of such weight, people durst not move to adjourn the Debate.

[Resolved, That a Committee be appointed, to prepare an Address to represent to his Majesty the danger of the power of *France*, and to desire his Majesty, by such Alliances as he shall think fit, to secure his Kingdom, and quiet the fears of his people, and for the preservation and securing of the *Spanish Netherlands*.
Agreed to by the House.]

Wednesday, March 7.

In a Grand Committee. On Grievances.

Sir John Mallet.] Moved that, if there were any great man, though ever so great about the King, who might be suspected not to be a friend to our religion, he might have the tests offered him, whether he was a Privy Counsellor, or no; and might be removed from Court, if he refuses them.

Mr Sacheverell.] He is far from joining in Mallet's Motion. If any man's crimes be so great, and he be such a friend to Popery, he is rather for the King's pardon for him; and they do not discharge their duty to the King, if they show not the arts of those persons who have promoted the *French* interest, which you cannot omit without breach of duty to the King and Nation. Since we have made this strict Alliance with *France*, let us see what steps we have gone. He will begin with the Triple Alliance, the breaking of it. No man but is sensible that that was diametrically opposite to the interest of the Nation. Then consider the manner how we fell upon *Holland* by attacking the
Smyrna

Smyna fleet. Then what good the *French* fleet did us when we joined with them against *Holland*, and how our Council resented it, and how it was resented abroad, and how much we have withdrawn from them since, and how many have gone over to the *French* service. He would also consider the trade of *France*, and our merchants tortured and put to death there. He would have thought on farther, whether the *Cambridge* and the *Bristol*, two of the King's men of war, were not shot at by the *French*, and made no resistance, broadside to broadside, in the convoy of the *Virginia* fleet in our seas*; and after all this, if the Council take no notice of this, whether it be not our duty to acquaint the King that these Counsels tend to gratify *France*, and to dishonour the Nation, and, these Counsels being so prevalent, that those who have opposed these acts, may have the honour of being known, and have the praise of this House, and that others may be enquired after.

Sir *John Ernly*.] The *Cambridge* that was shot at, gave the *French* ship her lesson, and made her forsake him. Sir *John Berry*, in the *Bristol*, would have buried himself a hundred times over rather than have suf-

* This affair was as follows: Capt. *Herbert*, (probably the same who was afterwards Earl of *Torington*) in the *Cambridge* man of war, off the *Ness*, came in sight of six ships, one of 60 guns, one of 50, one of 26, and three fire ships; five of them were under *Dutch* colours, and the sixth *English*; and when he came up with them, not one of them striking, he fired a gun, as usual, to put them in mind of the respect that was due to the flag of *England*; upon which they lowered their *English* and *Dutch* colours, and hoisted *French*. *Herbert* had fallen in with them to leeward, but, nevertheless, running up along side of the largest ship, he demanded the reason why they did not strike; and received for answer, "that they struck to nobody;" upon which he fired a shot, which was immediately returned by the *French* Com-

modore, and, by another of the party, with a whole broad side. *Herbert* then thought it high time to sheer off, as knowing a single ship would have made no figure against a Squadron, but, instead of prosecuting his voyage, he put into the next port, and making the best of his way to Court, not only complained of the indignity, in very lively terms, to the King and Council, but intreated to be sent out with a proper force to demand satisfaction. For this insult, however, satisfaction was obtained, Capt *Pannetier*, who had offered it, being sent into *England* to acknowledge his fault, and implore his majesty's pardon. *Ralph*.

This account, we may observe, differs, in some measure, from that given in this Debate, nor is any mention here made of the *Bristol*.

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ferred it; and would you have the King make War upon this, before the injury was known? He has sent his Ambassador into *France*, on purpose, about a Marine Treaty. The matter is consented unto now, for free ships, free goods, and, he believes, ratified. For some of our ships did really carry *Dutch* goods, contrary to Treaty, and could not justify it.

Mr Secretary *Coventry*.] The *French* Ambassador petitioned the King for his pardon in not paying respect to his ships, and the King of *France* has hanged two men for the injury offered in his ports to our merchants, and another in effigy for torturing our men, and it does appear that that very ship was a *Dutch* ship, and *Dutch* goods, and the man was hanged for torturing an *Englishman* aboard that ship. The Marine Treaty is signed by the two Kings, and 'tis more than ever yet any nation had of *France*.

Sir *John Knight*.] The *French* have seized our ships going from port to port in *England*, (without Passes) though not out of sight of land. At this time, this is so, which will, in time, destroy all our seamen. As for the Marine Treaty, 'tis well you have a Parliament in being that has made it so. Every petty man of war of the *French* will stop any ship in the King's seas to examine her. Formerly, they that shall have Passes from the Officers of the Custom-House, or Mayors, in their several ports was sufficient. But now ships are two, three, or four years abroad, they must take Passes from the Commissioners of the Navy, to be renewed every year, and bonds given to return that Pass, and oaths taken, and so the parties are undone by it. The best that can be said of the oaths and bonds is, that they shall not carry strangers goods; which if they do not perform, they are declared out of the King's protection. The *Dutch* and *English* are easily known asunder, and because the *Dutch* have abused them, shall such a general mischief be by it, that our ports shall be locked up? He desires, that, as trade by law is free, it may continue free, Moves, that a Committee may consider

der of an Address to the King for remedy of this.

Mr *Pepys*.] He knows not in his life any public thing that has gone through so many scruples as this of Passes has done. Every circumstance excepted against has been passed by the King, the Council-table, the Admiralty, the Custom House, and the Merchants; not one part of the thing but has had all these deliberations, and been refined from time to time, and 'twas no sudden deliberation. As for the limitation of goods, the King has had so many complaints of masters of ships selling their Passes, that, if no remedy be taken in the thing, the rest must starve at home. The thing is no new invention, but has been done formerly, and great benefit has been by it, and no complaint made of it. Formerly, a master of a ship might have three Passes in his hand, at several comings in and goings out; so that there was a necessity of limitations. Passes for ships to the *Indies* are not limited to a year, but for their voyage; and expresses are sent to *Algiers* of the Passes granted out. The *Newfoundland* Passes, or for the Streights, are but for a year: But at the same time, another Pass begins at the expiration of the former—There is but 100 *l.* bond taken, and that only for the return of the Pass; only to prevent Passes being in hands for an unlimited state of time. The oath is, that the propriety of the goods carried are truly so. We have *Dutch* owners that will accept any oaths; so this is only to secure the propriety of the goods that they are *English* goods, and shipped upon *Englishmens* accounts. This is complained of only in little out-ports, where scores of Passes have been detected forged. He believes from his heart what he has delivered is not to be mended.

Mr *Love*.] Ships, after several months being in port, have been discharged, but after long attendance and expence. He heard of that of *Algiers* and *Tunis*, spoken of by *Pepys*. He must acknowledge the King's favour, and cannot conceal without ingratitude the King's favour for convoys, who have brought these places,

places, *Tripoly* and the rest, to reason, which have been troublesome; but never was a greater honour to our nation than by Sir *John Norbury*, who rather brought them to submission than capitulation. And all now left to keep them in order is fear. *Pepys* said, "the most considerable merchants were consulted in this of Passes." He believes there is not one merchant will own it—No sooner was the Proclamation concerning the taking of Passes come out, but 'twas carried in an incredible short time to *Algiers*, and the *Bashaw* said, "he hoped never to see War, but, by this Proclamation about the Passes, when ships were brought in there without Passes, 'twas not in his power to keep the soldiers from seizing them." And by computation there has been 100,000 *l.* loss sustained by the merchants that could not gain Passes within that short time limited by Proclamation, and ships were brought into *Algiers*, and they took the goods and left the ships—They went for Passes to *Derby-house*, the Custom House, and the Committee of Trade, and the same charge for the Pass was upon a vessel of 1000 tons burden, as of 500, and it lasts but a year's time, and then they must look for a new one, and 'tis impossible, out at sea, to have a new one, and, for want of it, ships are exposed to the *Turks*; and this is not the case of one ship but a great many; and for a new Pass they must still give more money. To the West and Southward of *London* there are above 3000 vessels small and great, and to the Northward no danger of the *Turks*—And possibly as many more vessels from the West part of *England*; so that by the best computation that can be made, there is 10 or 12,000 *l.* in a year given for Passes, for the use of private persons; and he knows not the fruit of these Passes, but getting money—And the *Dutch* do as easily get Passes as the *English*. At the 'Change, merchants complaining of these Passes that the *Dutch* got them, a *Dutchman* said, "he came in a ship of 7 or 800 tons, and he called it the *London*, and was as good an *Englishman* as he." He asked him
whether

whether the Pass was not fraudulently got, or interlined? He said, “ ’twas as good as any”—And so our ships lie in *Leghorn* road starving, without freight, Merchants have had great sufferings by these things, and he hopes that they may have remedy, and that these small officers that have swallowed 12,000 *l.* a year, may disgorge this money towards the sufferings of these poor men.

Mr *Pepys*.] “ That the *Dutch* have Passes as well as the *English*” he hears said, but show one *Dutchman* that has had a Pass, and he will show you a merchant, or *English* owner, that has had eighty. *English* oaths they must take, and he can tell his name, reputation, and place of abode. He despises the thoughts of any undue profit, and of any man that thinks it. He challenges twenty-five shillings for this Pass, and he will tell you why he may. He whom he succeeds took thirty shillings a Pass, and his pains and diligence deserve as well, and are equal to any that have gone before him.—He has wrote himself blind in the King’s service—He denies “ that forty shillings a Pass have been taken,” and “ that 3000 vessels bound to the South and West of *London* have had them”—He denies both the one and the other. He values the reputation of a truth-speaker, above all his gains; and he appeals to the Council, and Admiralty, that merchants of as great estates as *Love* is, who have conversed with the Council and Admiralty, have proposed things more burthensome than this of the Passes in the practice.

Mr *Love*.] As he hears his name named, he must say, that he believes these Passes, &c. are not justifiable, and what they have done is willingly concealed—He does not say “ that all those vessels took Passes,” but if they did not, they must run the hazard of being taken by the *Turks*.—Their loss of time, and attendance for these Passes, is above fifty shillings. He can name men that will aver these things, and if all ships that run hazards must take these Passes, they will amount in value to what he has said.

Sir Samuel Barnardiston.] He has heard that the *Turkey* company have complained of these Passes, and have had losses by them. A broker told a person of good interest at Court, "Get me 100 Passes, and I will give you 1000*l.*" And afterwards, he said, he went to Court, and paid 80*l.* a Pass.

Mr Pepys.] Find him tripping in any thing he has averred, and condemn him in every thing. If ever he took above 25*s.* a Pass, he will give his whole estate, if proved. Name but one man, or one ship, and he will name an *English* merchant that is forsworn, as he said.

Sir Thomas Lee.] The foundation lies not whether Passes, &c. but the ground and reason of it. Pepys says, "he takes not above 25*s.* for every Pass." But he would know why the trade of *England* must pay 25*s.* in his office for things unnecessary. He would know whether the *Dutch* are obliged to such Passes, who are our rivals for trade. He is not satisfied of the use of these Passes. You have been told, "that free ships make free goods," and "that *English* ships, and *English* men, are at all times known."—He has not heard of Passes till of late times, and would know why *English* ships, and *English* men, may not be known without Passes, as well as the *Dutch*.

Mr Secretary Coventry.] The treaties with *Algiers* and *Tripoly* were concluded in these Passes, and it is not in the Civil Law, "that free *English* ships make free goods," but by virtue of a treaty. In all treaties with *Holland*, and other nations, this of Passes was an article.—Scarce a ship but had Passes, and the Consul of *Algiers* represented it kindly done. But the Bashaw's soldiers think it not kindly done. This is not a condition; but the care the King takes of his subjects—But 'tis said the Tiffa, or Governor, of *Algiers* does not take it so—The Consul would know from what clause that inference could be made—Our merchants told them, that what ships had not these Passes might be taken. He believes from his soul, those
Passes

Passes actually prevented a War with *Algiers*; but if *English* Passes must countenance all ships, 'twill not long be Peace.

Sir *Eliab Harvey*.] Every ship has the Custom House cockets, and *Gravesend*. These were formerly sufficient; and no need of new ones. The Proclamation about these Passes was whipped over to *Algiers* before any Passes could be sent to *Leghorn*; and the *Mary* and the *Martha*, had they not run into a creek, and been fetched off by a man of war of ours, had been lost for want of these Passes. If ships be confined to come home in a year, for want of these Passes, trade will be ruined. He believes this granting Passes is to set up a particular office for particular men, and would address the King to take them away.

Mr *Papillon*.] He never heard of any considerable merchant advised with in these Passes. In his own case, Passes were evermore a destructive thing. The King sincerely intended the benefit of the merchants by them, though they that informed him have not taken their measures right. Formerly, an *English* ship and *Englishmen* was security, but now a Pass must be shown. Had the property of the goods only been the Pass, trade had been good; but now the *Dutch* get these Passes, and hinder our trade. He has been told, that the King would not own him in trade, if his ship had no Pass; if so, then he must submit to whatever is imposed, or sit down and not trade at all. This imposing money for these Passes, and Bonds, is contrary to Law in all its steps. In his own case, in the *Spanish* articles, Passes were to be had from the Commissioners of the Custom House, but they refused him Passes till they had advised above. A ship went for *France*; they told the master he must go for a new Pass; he went to the Commissioners of the Navy; they told him they would not give it, unless the owner was bound, who told them, none would do it for an action another was to do—He desired the Commissioners of the Custom House to take the master's

bond, but none would do, but one of the owners bonds. He alleged that it was against Law, but was free—They told him he must not be under the King's protection, unless he did submit to this Order. The master, soon after, took his oath before the Lord Mayor, and had a Pass from him, and the Lord Mayor was chid by the Lords of the Council, and forbid to give these Passes—They may impose 20 *l.* for 20 *s.* at this rate, or else the merchant must lose his trade. This is a particular matter, for the profit of particular men, and I hope you will take care to provide against it.

Mr Secretary *Williamson*.] This matter will end in the corrivalry between the proprietor of the goods, and the ship-owner, and that will be the issue, and will leave you to judge how they who have set these rules, have mistaken the matter. He hears it said, "Are not *English* ships and men known at sea?" Passes indeed are but modern, but when trade stands upon laws of nations—Then in Peace all things are free, but in War get what you can. He can name merchants who have desired that these Passes might be for the benefit and security of trade, *viz.* *Page*, the *Hublands*, and *Hearne*, by express letters come from them—Or they must break else.

Mr *Powle*.] Upon consultation of the convenience of these Passes, he finds they are not for the merchants, but for themselves. It seems some merchants of the *Eastland* company desired them, but not the body of the *Turkey* merchants, only some particular men were discoursed with in private rooms about the convenience of these Passes. There have been pains taken to make them necessary, and then they impose conditions on the subject. 1st, They must pay a fee for the Passes; then take an oath and enter into bond. By the same reason that they have 25 *s.* taken of them they may have 25 *l.* and besides, the fees of door-keepers and clerks, and two or three letters to be obtained at the Custom House, *Whitehall*, and the Secretary's

rary's Office. You are told, "here is no compulsion upon persons to take the Passes." But you are told, "that without them the ships are not under the King's protection." Suppose no man shall prosecute a thief at the King's suit unless he have a Pass—And not be under a general protection, unless under a particular one also. If such Passes are requisite and necessary, such fees are not, and should not be taken. Merchants clear their goods at the Custom House upon oath, and why should not Passes be there ready for them to save trouble? The foundation of these Passes is illegal, and exacting oaths and bonds for these Passes is illegal, and a Grievance to be redressed.

Mr *Garroway*.] He is sorry our condition is such as to be reduced to Passes. 'Tis come to it now, in plain *English*, that we are not in a condition to defend ourselves, as formerly. He has known that obedience has been paid to a letter, even in *France*, without Passes. But the King of *France* will have Passes now. He believes Passes are illegal, but fears there can be no cure, as matters are settled, without Passes, and with them, by our great neighbour, we shall have no farther impositions. He hopes the Address we voted yesterday may remedy it.

Sir *William Coventry*.] He stands not up to oppose the merchants, who say, they would have no Passes, but would have them farther advised of the advantage they have by it. If a man of war carry one of our ships into port, under pretence of examining, it is a great prejudice to him, though he lets him go again. He would have these Passes so, that ships may not go one league out of the way. Consider how 'tis now in the Treaties. Ships shall carry such Passes. They may be free without them, but not from being carried up into ports to be examined. He concludes, if the merchant have no loss for want of these Passes, 'tis a Grievance to impose them—Else merchants will be without them, and foreigners take them. He moves that merchants on the Exchange may be consulted with

by the King's Ministers, and that a Committee be appointed to enquire and report the matter.

Mr *Garroway*.] 'Tis past remedy now to avoid these Passes, for the present; for the *Virginia* trade, and the whole wine trade, is as much the King's profit as the merchants, and he would have them cost nothing.

Mr Secretary *Williamson*.] The Pass is a great favour to those that have it, and is no illegal imposition.

The Speaker.] As to the money given for these Passes, he has nothing to say in justification of it. But had gentlemen complained of it in time to the Admiralty, these gentlemen had never come hither with it for a Grievance. He has the honour to serve the King in the Navy, and this complaint of the Passes is as if all the world would do as we would have them. If Treaties cannot be made but with these Passes, the Treaties must justify whether these Passes are good or bad. He would ask the merchants, whether they would have Passes, or War with *Algiers*; or whether they would let their ships be carried into ports without them. These Passes own the goods of *Englishmen*, and merchants forswear themselves daily, and these Passes are for security of trade, and there is a bond taken, that no ill use may be made of these Passes, that when the *English* merchant has served his turn with the Pass, foreigners shall not have the benefit of it; and when he returns, he has his bond again. If once you put a blemish upon these Passes, by a Vote, they will never be of any use. I would have you refer it to a Committee, and if it appears that they are for the benefit of trade, they deserve your countenance rather than censure. Before these Passes were issued out, methods and rules were given, subscribed by the Commissioners of the Custom House, particularly by Sir *Richard Temple*, and Mr *Garroway*, and were sent to the Lord Treasurer for his approbation.

Mr *Love*.] He knows not what any man can complain of when he knows not of what. He knows some of the gentlemen. He knows that some of the merchants

chants who subscribed the paper, disowned it, and were ashamed of it, as contrary to all the opinions of the merchants upon the Exchange. Scarce a year is yet determined from the date of these bonds, and so they cannot be sued. There is great reason for these Passes for knowing *English* ships from others, but under this colour *Dutch* ships have had them. A *Venetian* ship was taken by the *Algerines* last year, and had got an *English* Pass and *English* colours at *Leghorn*, and no man has had the confidence to claim her as an *English* ship. He is not for recall of these Passes now; else all would be in confusion; but would have a time limited for these Passes to determine.

Sir Thomas Lee.] You were told that this of Passes was first begun in *Spain* and *Holland* in 1648—That is certainly not so ancient as the Law of *England*. But he censures not the thing now, but the manner of it. He thinks when these Treaties were made, &c. an Act of Parliament should have been to confirm them. If invasion be made on the Laws, and if time and practice make power of doing or not doing them, he knows not what the consequence may be. He would have them so that no man may have hurt, but good by them.

Mr Solicitor *Winnington*.] He takes it to be his duty to speak in this matter, because it relates to his profession. As for the legality of these fees, if his opinion be asked, he will give the same in another place as he shall do here, that they are illegal. Where a charge is laid without act, &c. 'tis but where there is a convenience—A fair or a market is a profit to a town to enrich it. A toll is a charge out of a profit. If the Question be upon the fee for the Pass, the person that takes it is free to let it alone. No man can be compelled to enter into bond for what he may lawfully do. Not the Common Law, but the Civil Law, is under the Admiralty Jurisdiction—They take and impose bonds to submit to the Court, which, the Common Law says, is illegal, and prohibitions thereupon.

But in this he craves the aid of the Civilians. Sir *Edward Coke* thought fit that there should be new Clauses the oath of Sheriff, because there were new Revenues, not coherent with the old Revenue. The Judges were of opinion, that, upon emergencies, a new oath might be required. But whether this bond or oath complained of be legal or illegal, is doubtful. Many things may not be lawful, though convenient, according to emergencies. He humbly proposes, that though this fee of the Passes, the bond, and the oath be illegal, yet since a man may lie under a Vote of the House of Commons for Grievance, when the principle is convenient, that you would take farther consideration of it. Where a man does a thing wilfully and maliciously, he will deliver him up, and expose him as much as any man here. He would refer the whole matter to a Committee, and, upon farther enquiry into it, you will have those helps, in order to establish them by Act of Parliament, if you see reason for it.

Mr *Pepys*.] He is much concerned in this matter, not for saving his fees, but for the opinion of this House. He has served the King almost these seventeen years in the Admiralty, and he appeals to any man, whether for the Commissioners yards or the whole Navy, he ever asked six-pence unusually taken; which not one man that preceded him can say. To show you with what simplicity he went on in the Proclamation about these Passes, he did examine what fees his predecessor duly took; he found it was thirty shillings, and he reduced it to twenty-five. He fell from what his predecessor had taken. He would have it referred to a Committee, & will rest content with whatever you will do.

It was referred to a Committee, &c.

Serjeant *Maynard* being gone out of town to the Western Circuit, without leave of the House, contrary to an Order, was complained of; and upon Debate (though not by Order) his son, Mr *Joseph Maynard*, was permitted to write to his father, to return to his attendance upon the House, which if he did not, the Serjeant of the House should be sent to bring him up in Custody.

A Motion being made, to give leave to some Members

to go out of town to attend the assizes at *Huntingdon*, in order to give evidence (but in truth to plead Privilege) against being sued as part of that hundred, for the money taken from the person, &c. the Speaker admonished them to consider better of their Motion, and no Order was made in it.

March 8, omitted.

Friday, March 9.

Sir *John Trevor* reports, from the Committee to whom the Petition of Mr *Bernard Howard* was referred, the state of the case concerning the bringing into *England* the Duke of *Norfolk*, their brother, detained as a lunatic at *Padua*.

Resolved, by the Committee, That it is their opinion that the King be moved by an Address from this House, that the Duke of *Norfolk* may be brought home [into *England*] from his confinement beyond sea.

Mr *Onslow*.] The Committee have made this report without his being heard. The things alleged were done before his time; but they were done in his father's time, and for his honour he desires he may be heard in the behalf of the Duke and his father. Himself being absent from the House, upon the sickness of his mother, he desires he may be heard at the Bar, a favour never denied to a Member.

Sir *John Knight*.] The Duke is kept shackled, and from all his friends, and this makes him disordered. What would *Onslow* have to be heard to? Nothing but to keeping the Duke where he is. He would have the Duke brought over. It may be done, without danger of his life, to the next port, on ship-board—He would have the House consider his condition, that he may be brought over to be restored to his liberty as well as his estate.

Mr *Dalmahoy*.] If a man be not prepared to answer, he hopes you will not deny so reasonable a request from your Member as to be heard at the Bar. *Onslow* is a worthy person, and is in many trusts in his country.

The Speaker.] It appears to the Committee, that the Duke is not such a lunatic, but that he is fit to be removed, and have his estate; but 'tis a right to your Member

Member concerned, that he should be heard at the Bar, if he desires it.

Mr *Garroway*.] As to matter of Law, your Member is to be heard. It is said, "that those gentlemen who petition for the Duke's coming over, have their whole dependence for livelyhood upon the life of this person, and they desire he should come home." Dr *Smith*, the doctor of *Bedlam*, and Dr *Stockham*, declare that he may be brought home without danger, and that a hot country is an ill place for the cure of madness.

Mr *Onslow*.] He is informed that the Duke cannot be brought over, and he should do ill not to inform you of the consultation of physicians at *Padua*, who declared he could not be brought over without danger of his life.

Sir *Richard Temple*.] The Duke is not manacled and fettered, as is said, but what was done of fines levied, &c. was done in the Duke's father's and grandfather's time. The prayer of the Petition is, "that the Duke should be restored to his estate, and brought back home," and your Member is charged with abusing his guardianship, and this concerns your Member. The whole Petition is reflective upon him, and you cannot do less than give your Member a hearing, to do him justice.

Col. *Birch*.] Here is a noble person who is desired to be brought home by those who have annuities depending on his life, and those that would not have him come home fear he will die by the way. Suppose the Petition were against himself, if he judges it an aspersion, he is heard; but never knew hearing at the Bar, when your Committee has nothing against your Member, and nothing is reported from the Committee, but desire, &c. to bring the Duke home; and was he his guardian, he would desire he might come home. As he understands the Law, there is no way but he must come home—He must be seen by my Lord Chancellor, and would you have my Lord Chancellor go to inspect

inspect him? We cannot spare him. Suppose the Duke were a fool, there are more fools in *England* besides him. But suppose he should die by the way—One would think the brother, and the rest who depend upon his life, would rather petition for him to stay than the guardians, whose interest it is to keep him alive. He sees no reason but that the Duke may be sent for, and 'tis agreeable to Order not to hear your Member, and he would have him sent for.

The Speaker.] 'Tis the first time a Member was denied hearing at the Bar. It is grounded on reason, because interest may sway at a Committee, and he would have an impartial hearing, and 'tis his right.

Sir *Adam Brown*.] Hears, in Mr *Howard's*, &c. Petition, waste alleged to be committed, and fines levied upon the Duke's lands, and *Onslow*, his guardian and your Member, is charged with it. You do him the greatest injury that can be, if you will not hear him.

Sir *William Coventry*.] He never knew a Member denied hearing at the Bar, if he desired it. But in this case of Mr *Onslow*, if he would tell you to what points he would be heard, it would save your time. One part is malversation of his guardianship, and the other is the bringing over the Duke. These, he conceives, are the two points. The doubts are, whether the Duke be mad. Not thus mad, or thus mad. He should have thought *Onslow* mad, if he suffered the Duke's being judged mad, to let him manage his estate—As to the person coming over, would have him heard if he pleases.

Mr *Onslow*.] The trustees for the Duke of *Norfolk's* estate are the Marquess of *Dorchester*, and Lord *Peterborough*. His guardians are the Marquess of *Worcester*, and himself. He desires to be heard, *First*, to the commitment of waste upon the Duke's lands. *Secondly*, to the levying of fines. *Thirdly*, whether the Duke be fit to come over without danger of his life. To these three things he would be heard.

Mr

Mr Secretary *Williamson*.] He supposes you entertain this detention as a guard upon him, that he should not come over; which the Commons are concerned at. If fines be levied, and other things done prejudicial to the family, your intention of calling him home will judge of all that. But if your Member, *Onslow*, desires to be heard first, 'tis but reasonable and consonant to honour and justice to hear your Member's reasons why he should not be brought over.

Mr *Pepys*.] Desires to interpose two words. *First*, what injury we ourselves are doing on ourselves, and putting your Member *Onslow* into a worse condition than other men! You will think fit to entertain and receive a charge against your Member, in company with noblemen, and will not let him defend himself, because noblemen are in his company. And 'twill be for ever on record on your books, because noblemen are concerned, who cannot be here. *Secondly*, there is so great a degree of difference between preservation of life and estate, that you think it no crime in a guardian to keep a man so many years, and though he with others conspired to the violent detention of the Duke (a man of his quality that has his senses) yet you deny him to be heard to justify himself. And for so many years detention, may he not be heard to speak for himself in his own justification?

Sir *George Downing*.] The natural Question is, to agree, or not agree, with the opinion of the Committee. The Guardian of the Duke, that is his legal father, you take him out of his hands, and will not hear him. The father dies, and leaves an heiress, and you take her away without hearing the Guardian. Can you judge this without hearing the person trusted? You address to remove the person from the Guardian. Will not the Lords concerned come in here, and take exceptions? 'Tis said, here is delay by this; but 'twill be your fault if your Member be not speedily heard at the Bar, and no delay, if he be heard within two or three days.

Mr

Mr *Sacheverell*.] We are drawing great injury on ourselves, and it will be always so, when we make illegal things necessary. The King, by Law, is this Duke's Guardian, and you will not let him come within the King's territories. The Committee wholly waved all reflection on your Member, and desire no more than the Law, for the Duke to be under the King's protection. He knows no Law for a Member to be heard here against Law, to keep the Duke out of *England*. What will you hear Counsel to? Only whether he must be kept where he is, against Law. For these reasons he would agree with the Committee, that the Duke may be sent for, and not be kept out of the King's dominions.

Mr *Powle*.] For what passed before the Committee (he was there) thinks they had reason to pass that Vote. Now your Member claims to be heard at the Bar, before you agree with the Committee, and he offers something against agreeing with the opinion of the Committee; which, he agrees, is proper, according to Order—But persons who desire the Duke should come over, will be losers by his miscarriage by the way. The first point *Onslow* desires to be heard to is, the discharge of the trust of himself, and his father. The second is to the guardianship of his person. That only is before you, whether the Duke be capable to be removed without hazard of his life, or may be better here than in remoter parts. If the Member desires to be heard to the vindication of himself and father, he may be heard. But to the resolution of the Committee the Member was heard.

Sir *Thomas Meres*.] This pupil, the Duke, is at a great distance, and he supposes that *Onslow* has the direction of him. Now the dispute is, that *Onslow* does not order him well, and that must concern your Member. At the Committee, the Counsel for Mr *Onslow* were heard, till they would speak no longer, and all
this

this alleged by *Onslow* has been heard already, and will you hear it again, at the Bar? Has the House of Commons nothing else to do? Our Address concerns nothing but the Duke's coming over; and he would agree with the Committee.

The Speaker.] The report from Sir *John Trevor* has told you every particular, in matter of fact, and the reasons on which the Committee made their resolutions, having heard all parties.

Sir *George Downing*.] Will not here stand upon your book the highest imputation upon your Member, that can be? Therefore to whatever is imputed to your Member, as Guardian to this Duke, he ought to be heard.

Sir *Charles Wheeler*.] Levying of fines and committing waste are points of Law, and will you hear any points of Law at the Bar, and then pass no judgment upon it?

Sir *John Trevor*.] There remains a mistake, as to the levying the fines, by the Duke, and the recoveries 29th of *August* 1654. The 13th of *July* 1653, he continued a lunatic. The fines were taken before the inquisition, whereby he was found lunatic. One only was taken after he was found. These fines were taken in that interval of time.

Sir *William Coventry*.] The Counsel must know, before they come to the Bar, what points they have to speak to, that are in issue; and he thinks to these *Onslow* is to answer; the point of the Duke's coming over, and to his detainer beyond sea; but not as trustee. To answer for his father as trustee—There would be no end of that. If those that have been your Members, must be heard, you may as well hear all that hope to be your Members.

Sir *Robert Howard*.] This matter has slept in the family a long time, till some unfortunate difference happened in the family. This matter deserves the slowest pace your justice can give it. He sees no haste to pass a Vote. Necessity calls us not for it.

Sir

Sir *Thomas Meres*.] He has nothing to do with the estate ; but 'tis for the dishonour of *England*, that one of the first noblemen of *England* should be detained beyond sea, to dishonour the nation.

Resolved, That Mr *Onslow* be heard by his Counsel, &c. [as Guardian to the Duke of *Norfolk*, on *Wednesday* next.]

Saturday, March 10.

Mr *Powle* reports the Address resolved *March 6*, relating to the growing greatness of the *French King*.

Sir *William Coventry*.] He would not have this Address sent up to the Lords, to have it mangled there, and so create a difference betwixt us—But let us go on with speed here with things which else will go on but slowly (without this Address) our safety so much depending upon it.

Sir *Thomas Littleton*.] He is afraid of this Address in the Lords House, that it should receive alterations, as it must be sent up with a blank to be filled up. But now 'tis voted, you cannot change the quality of the paper.

Resolved, That the concurrence of the Lords be desired to the said Address.

The Address was accordingly sent up for the Lords concurrence, and was as follows :

“ We your Majesty's most loyal Subjects, the Knights, Citizens, and Burgeses, in Parliament assembled, find ourselves obliged, in duty and faithfulness to your Majesty, and in discharge of the trust reposed in us by those whom we represent, most humbly to offer to your Majesty's serious consideration, That the minds of your people are much disquieted with the manifest danger arising to your Majesty's Kingdoms by the growth and power of the *French King*; especially by the acquisitions already made, and the farther progress likely to be made by him, in the *Spanish Netherlands*; in the preservation and security whereof, we humbly conceive, the interest of your Majesty, and the safety of your people, are highly concerned : And therefore we most humbly beseech your Majesty to take
the

the same into your Royal care, and to strengthen yourself with such stricter Alliances as may secure your Majesty's Kingdoms, and preserve and secure the said *Netherlands*, and thereby quiet your Majesty's people."

Monday, March 12.

Mr *Love* brought in a Petition from the Brewers of *London*, [and *Westminster*,] against the additional duty of Excise, as ruinous to their trade, and the consumption of malt, &c.

The Speaker said] This Petition is against Law, (*but reading the printed Statute concerning Petitions, said,*) The Print does not agree with the Roll—(*For there it was otherwise.*)

Mr Secretary *Williamson*.] For any person without doors to take notice of what you are doing within doors, is not to be offered in a Petition, nor so much as touched at here—The catalogue of names they pretend have been ruined by the additional duty—Moves you would not let it pass to the Committee.

Sir *William Coventry*.] Will speak to the regularity of bringing in the Petition, objected against. It is objected, it seems, that they thwart or interpose in the matter of Supply. They do not petition whether the King shall have a Supply; but that the thing is detrimental to the Public. They have other grounds than rumours concerning this of the additional duty; they have the King's Speech printed, that calls it a revenue. And as to the regularity of taking notice of it here, he speaks for instruction to himself; his borough (*Yarmouth*) apprehends something to be destructive to them. Shall not he send to his Borough about it? The matter of red Herrings is particular to his Borough of *Yarmouth*—Suppose an imposition on Salt, a thing necessary to their livelihood, &c. And may not he send to them, without offence, to know what may be destructive to them in such a case? The Petition of the Brewers is justifiable, and he sees not matter or form in it irregular,

lar, and they may not be abridged of those liberties. It is their birth right.

Mr *Love*.] He did not tender the Petition with intent to disturb the House. He has had it in his pocket this week, and he thought it fitter for this House to reject it than himself.

It was referred to the Committee.

In a Grand Committee on farther Supply. Sir *Richard Temple* in the Chair.

The Brewers Petition was read.

Mr Secretary *Williamson*.] This Committee is to take into consideration that part of the King's Speech relating to the Supply. He desires in it a continuation of the additional duty of Excise. His affairs are such as require the kindness of his people at present. When all things shall be considered, there is nothing more easy for the people than this of Excise, though 'tis not without its troubles. He moves a continuation of the additional duty of three pence upon small beer, and six pence upon strong beer and ale, on the barrel, for three years more.

Sir *John Ernly*.] He hopes you will think this a moderate request, when you are told the King asks nothing else, and expects it not as a Revenue. His Revenue is strait, and his condition is so too. His debts are great, and he hopes one time or another to conquer them too. This of the additional Excise, &c. was granted for a debt, and the King has paid that debt, as far as the Excise would go. The rebellion of *Virginia* has cost the King 100,000 *l*. *Algiers* and several other things make his Revenue fall short, and he hopes you will not think this a great matter, when you take nothing but from those men who have been raised to the greatest estates of any sort of men by the Excise—Then this is but an addition of nine pence, and he knows not an easier way than this to raise the money. He knows not else how it can be laid more

easily. 'Tis a modest request of the King, and he hopes you will not deny it.

The Speaker taking the Chair upon a Message from the Lords,

Sir *Thomas Meres* said,] The motions before made at the Committee are as of six days old, and must be renewed at the Committee, as if never made.

Sir *Richard Temple*.] It gives no interruption.

Sir *Robert Carr*.] Moved for the Excise, again; and so did Sir John Ernly.

Sir *Thomas Meres*.] This is a complete Question. 1st, If you will continue this additional duty on the Excise at all. And, 2dly, for what time. He should be glad if we never had either Question. But he should have them put in order, if they must be put. But he would not at all have it continued. His first reason he has against it is that which *Ernly* gave for it. "Because it is so easy," he fears 'twill be a continuance, and so be nailed upon us and our posterity. Land tax goes hard, but when we give it, it breaks off in time. 'Tis said, "this of Excise is paid insensibly, and therefore let it pass." But therefore let it not pass. Children take aloes with sugar, to swallow it the easier. Rents do fall, and because the Excise is not a plain reason of it, therefore is it none at all? This is an enemy that lies sculking behind the hedge, and may prevent another Session of Parliament, if we give it now. "If no money-business, then prorogue the Parliament." In this Government, as it is, nothing can keep great Ministers in awe but Parliaments—No man will tell him, that a Parliament is for nothing but giving money. The Excise, &c. has got the reputation of "a Revenue" in the King's Speech, and so printed in the King's Speech. 1,300,000 *l.* was given (by it) to pay debts, and build ships, not for "a Revenue." And he would not give it again for the purpose of "a Revenue." Now we have given money upon land, for building of ships; never done before. Though for ships, so vital a matter, yet little obligation upon
us

us for payment of debts—'Twas once given for debts, and shall we do so again? And still debts are not paid, and so *ad infinitum*. At the same time that this additional duty upon the Excise was given, there was twelve pence in the pound upon land, and that debt was never lessened, and no more ships were built. 1,200,000*l.* was given for a War with *Holland*, and half of it was sufficient to discharge that War, it ended so soon, and yet no debt was paid. He sees, give how you please, here is 1,500,000*l.* debt not paid. Possibly he may be answered by those that keep the books, which he understands not, and they do their own figures. This Excise, &c. will be a double tax on land. Those that live here, perhaps, find it not. The Petition is ready to avow "600,000 quarters of corn less expended, after this additional duty granted;" and we must abate rent, when the product cannot be wasted. He supposes the Question will be, "Whether to continue this duty of Excise," and he will give his negative to it.

Sir *William D'oyly*.] The subject has advantage by this additional duty of Excise. As to the Act of exportation of corn, he appeals, whether any man of five pounds *per ann.* gains not by it. The King has deducted out of his Customs 80,000*l.* for abatements, according to that Act. He moves "that we may continue the additional duty, &c." that the King may continue his favour to us in this particular of transportation of corn.

Mr *Garroway*.] None but know how vexatious the Excise is in the country, being taken double by the officers. 'Tis burthensome, not only in the manner of collecting it, but money slips from you more insensibly than in any thing. He fears this granting it for longer time may be usage upon you, as the Custom upon the currency in the late King's time. Where the Judges found the King in possession, they could not dispossess him; as in Alderman *Chambers's* case. He is not against the King's Supply for his occasions, but he fears this will be

turned into a Revenue. No body desires to freighten the King, but these are his fears, and therefore what you give, give in a day, to have occasion thereby, for your meeting again to supply the King with money; lest there shall be no occasion for your meeting, when there is none for money. Moves therefore "against giving Excise, &c."

Mr *Vaughan*.] The reason given by *Meres* against the Excise, is "That it smiles in your face, and cuts your throat"—To convert temporary aids into a Revenue—Either the Treasury is so full as to require no aids, or if not, the Prince puts as divine justice and protection to subjects—remuneration. As Corporations entitle themselves to many things by usage and custom, so the Crown may do to grants in Parliament repeated. Wools, and Woolfells, in *Richard II's* time.—'Twas a great while before the people could get their right again. Their right is to give, and the King to take. This of Wool, &c. was granted in 9 *Richard II.* only betwixt *Christmas* and *Candlemas*, to interrupt the King's claim of it as due; but, notwithstanding, there are two precedents that they were extorted. *Henry V's* tonnage and poundage were granted for life, but not an example for years. The greater felicity we now have, perhaps the greater infelicity hereafter—We stand not upon this for ourselves only, but posterity. 1 *King James*, Subsidies (Customs) were granted. 1 *Char.* Not only Counsel, but the Judges, found out a new title to it. If the laws cannot divest what is illegally vested in the Crown, property is but a sound. The true support of the prerogative of the Crown is honour and justice. Many Bills are contracts from the people—Had not this obligation been overlooked, the subjects would not have been so cautious in the manner, nor parsimonious in the matter, of their aids: Though this Parliament has not been so. This of Excise is one of the worst things this Parliament has done, having taken the precedent from the democratical government, and he is not for the continuance of it.

Mr

Mr Powle.] Would not be too liberal of the purses of the people, but when necessity requires; and there is not a necessity when the King is in Peace, and lives upon his ordinary Revenue; and in War, and, on extraordinary occasions, he has recourse to the people for Supply. But when we do otherwise, we destroy the Government. The Question is singly, "Whether the King's Revenue be not sufficient for the charge of the Government, now in time of Peace." He has reason to believe the ordinary Revenue super-abundant. The single Question is, "Whether the Revenue be more plentiful than in former ages, and the necessity of the Crown greater"—He has some reason to believe the present Revenue sufficient, &c. but the King's Speech calling it "a Revenue," he is not well informed in it. 1,200,000 *l. per ann.* is the ordinary Revenue. He has a paper, and he believes it a true copy, out of the Privy Council book, "That, 22d of July, 1668, 'twas proposed in the Council that all the Revenue might be cast up, and the officers of the Revenue were consulted in it." The charge upon the Revenue was then 740,000 *l.* (and 40,000 *l.* is since gone off by the death of the Queen Mother.) The provision for the household, the summer and winter guard at sea, included. This last summer the King's household expence was reduced—Scarce honourable for a private person—No winter, nor summer sea-guards, and our ships taken away in our ports, and 300,000 *l. per ann.* additional Revenue—Would know what becomes of all the rest of the Revenue? Will there not be 500,000 *l.* a year to live upon, and no need of these retrenchments of his family? He believes that the King is so informed of his Revenue, that he must call for Aids, &c. But if we burthen the people thus in Peace, what shall we do in War? It seems there are some bye channels that convey away this Revenue. He would have a reason given him of these things. A learned *French* Lawyer tells us, "That the first grants of Aids in *France* were only temporary Supplies, and were perpetuated

for ever after ; as in *Charles VII's* and *Lewis XI's* time. *Charles VII.* prayed a law of the States to order him to raise money but till their next meeting, and that neither unless there were occasion ; which the Parliament, by inadvertency, granted, and have never met since. Upon the whole, he must give his Negative to " the continuation of this duty of Excise."

Sir *John Ernly.*] *Powle* says, " That the Revenue now is greater than in the late King's time." But when you see the particulars of that Revenue, possibly 'twill be found as great as the present Revenue. But we must consider what infinite vast defalcations there are in it. But he affirms, that for some years, of late, the necessary expences of the Crown exceed the Revenue. 'Tis said, " this of the additional duty upon Excise was given to pay debts and build ships, and no debts have been paid, nor ships built." But some debts are paid, and the King sincerely professes he will pay the rest, and he has built as able ships, and does exceed his predecessors in number. But there is no setting up of offices (as is said) which divert this Revenue. In *Edward III's* time, though there was a discontinuance of the tax upon Wools and Woolfells, yet they were granted again in the same Parliament—Having done nothing for the King this Session but for your own safety, what is desired of you is moderate—And if you grant not the Excise for three years, you do the King no good, and leave him in the greatest exigency.

Mr *Powle.*] He takes it, that the King is bound by his royalty to protect his people almost always ; is sure, generally, and not particularly, in the safety of the sea. But, he fears, such wastes are made in the King's Revenue, and it is diverted to other purposes, that it may come to more than this grant. The first matter of charge upon it is pensions charged upon the Custom-house, and some to persons formerly not acceptable to this House *. A custom is introduced now of

* Duke of Lauderdale.

pensions paid by officers of the Revenue, and not out of the Exchequer, where pensions are to be paid in the last place. But now if any thing wants, 'tis the public, and not private persons, and he hears that of pensions is a great sum. The next is petty farms of the Customs—And particularly men are not to be gratified out of the public money. He has a copy of a grant in 1674—The great Patent of Smalt, Pot-ashes, and Barillia * (out of consideration of services past) to the Earl of Kinnoul. And it grants all the duty arising, or which shall be, by patent for thirty one years, for the payment of 240 *l. per ann.* to the King, which is worth 1000 *l.*—The King is deceived in his grant; and perhaps, what we now give may be to the benefit of private persons, as this Patent is. Next would have it considered, whether there have not been great and extraordinary bounties in these great exigencies for money; 30,000 *l.* given away at one clap, and because the Commissioners of the Customs would not do it, they were turned out to make way for them that would. Other bounties of the like kind. Before we give more, we ought to give the King what we have given.

Sir *Thomas Meres.*] 'Tis granted that the King's debts are not paid, but as for ships, 600,000 *l.* was given to build us some ships. The last Session the Revenue was valued at 1,500,000 *l.*

Sir *William Coventry.*] The regulation of the Revenue (spoken of) by the Lords of the Council, is that which calls him up. He was once one of the Commissioners of the Revenue—And was ever of opinion that 'twas for the interest of the King and People, that the expences of the Crown should be within as reasonable bounds as may be, and was then willing to reduce the King's expences—Because no man can tell you that thing, as perhaps he can. The grounds of reducing the expences then were, that the King had run into a very great debt, and in this House 'twas said, "What it had given the King was put into a bottomless bag."

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* A kind of *Spanish* Pot-ash.

The Commissioners of the Treasury, to remove that doubt, considered how to take it away. The thing was great, and not out of memory, though he has no paper of it here. The Revenue was one Million. The Steps the Commissioners went by were, regulating the expences to 740,000 *l. per ann.* The Question was how to pay a debt of a Million, and 40,000 *l.* So that the present expence was 700,000 *l.* They went on this ground—That regulation was not made, because the King's convenience required no more. But they must cut the coat according to the cloth—The King must pinch so as to live upon this, to redeem his credit—No man in a private family but provides for events—They thought the Government not to be maintained without the King's credit, if they borrowed not of one to pay another. There was no credit: (The shutting up of the Exchequer was not thought of.) 150,000 *l.* due for interest—But offices were to be pinched; the guards and garrisons were not, for they, if not paid, it was feared, would pay themselves, and they must not (the most of all others) be put to a strait. There was not left out of this Regulation, for the King's bounty, 100,000 *l.* So that if half the King's Revenue might be lived upon, there was enough for occasion—He fears this of the Excise will work more on land than we think; but whether on this or that brewer, is not our concern; but if the brewer has not his profit one way, he will have it another. They will certainly make drink smaller, and thereby Barley will fall at the Market, by the less Consumption, and land must sink. He has been in the Country these five years, and has observed that the last year was not very plentiful. Three or four, or more people, of good estates, who had their land in their hands, affirmed, that the fourth part of their crop was wanting; but still corn was as cheap; (It may be said, brewing with sugar may be one reason, but that was not much) and so this duty upon the Excise will still influence the land. He must give his negative to this, given for
Aid,

Aid, but avowed as "a Revenue" in the King's Speech in print, and it is as good authority as from any Gentleman here. We have seen Gentlemen here undertake to secure you from Land-tax, and were afterwards able to perform it, and did great things. Sir *Thomas Clifford*, afterwards Lord Treasurer, said here, "Once more give Land-tax, and I will secure you from ever hearing of Land-tax, or ever hearing of debts again." When this of Excise was made a Revenue, though the Exchequer was full enough, without consent of Parliament, a Declaration was put out, to stop the payments, which this House sufficiently expressed itself sensible of. This of the Excise is an unfortunate Revenue with such untoward circumstances—And he would see a little farther how the Address concerning *France* will succeed, before we give such a considerable matter out of our hands. If the King do any thing in that Address, in order to the safety of the people, who can tell what that may draw upon us, whether War or not? And he would have save, out of this very thing that set the King of *France* on horseback, to cut his stirrups by it, and pull him down again, by this reserve of the Excise, when he is put to a stand, or is alone, or any thing else happens—'Tis prudence to keep something in reserve—something to assist the King with. There are two ways of bringing the expence of the Crown conformable to the Revenue. But he knows nothing particular of the Revenue, but believes it 1,200,000 *l. per ann.* which may afford plentiful provision for all things. Speaking long is painful to him, and tedious to you, and he will trouble you no farther; but for these reasons he must give his Negative to the "continuation of this additional duty on the Excise."

Sir *William Coventry*, occasionally by what fell from Downing, said,] He must infinitely applaud the Administration of them that managed the King's Revenue, to make the King spend 14 out of 1200,000 *l. per ann.* The King could hardly run 400,000 *l.* out upon credit—

credit. This is not the expence of War, but disbursements—The army disbanded, and the navy dismissed, and the arrears of Poll money, and the Tax to receive. But the natural expence to be 1,400,000*l. per ann!* He could not have believed it, but by so good authority for it as *Downing*. The regulation of the King's revenue in Council, a reserved 400,000*l. per ann.* for emergencies—In *July* after he was removed, but what after that was done, he knows not, but he has heard those regulations were passed by, and greater expences followed.

Mr *Neale*.] He hears it said, "That the continuing this additional duty upon the Excise will lower Corn, and in consequence will affect land, by hindering the consumption of Corn." But he will convince you, by experience, of the contrary—Barley has borne as good a price since the additional duty, &c. as for twenty years last past. The consumption of it arises from this: Beer and Ale ever since have been so strong, the Brewers else would have lost their customers. So the consumption is as much as before. He has found it by woeful experience. He lost 9,000*l.* in one year by brewing smaller drink. To the convenience, or inconvenience, 'tis said, "the retailer is unconcerned in some countries, they selling by what measure they will"—Though it is not so about *London*. If the victualler and retailer have it at the same price from the Brewer, the customer has it so too. When the duty was first laid, drink was cheap, it being looked upon only as a temporary Act, and no clause in it that makes it otherwise, and the charge was wholly upon the Brewer, and the drink still had the same strength and goodness. 'Tis objected "that some Brewers make their customers pay more since the duty, &c." but they are such as by their debts must be kept in good order. But able customers never paid nine-pence on six-shilling Beer, but that bears so small a proportion, 'tis not worth naming. Upon the whole he has made it out, that, now Corn is cheap, Beer may well bear this duty, &c.

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Col. Birch.] *Neale* has made it out so clea, "by his own experience," he tells you, &c. When a gentleman of his activity and management lost in three years 10,000*l.* it makes him afraid of the rest. He finds this on a Brewer's book, "that since the nine-pence upon the barrel, &c. there has been much less drink spent, and 6000 quarters of Malt less than before spent". How much within the kingdom is less spent, he leaves you to judge. Consider this year's exportation. Suppose 80,000 quarters of Corn. Exportation of Beer and Corn too cannot make out the conclusion as *Neale* does. Twelve-pence turns three or four hundred weight in the scales. This duty cannot be borne, without the ruin of the Brewers, and hindering consumption of Corn. Another gentleman told you, "it was an easy way of raising the money," and therefore moved to grant it. It has been told him, he has been so free formerly, and what ails him now? He was here when the Convention solemnly debated the thing, and it was then said 1,200,000*l. per ann.* was a convenient Revenue to maintain the government. He was so convinced then of it, that he thought it his duty to acquiesce; and, out of that, extraordinary occasions and building ships might be done too. *Clifford* told you (he remembers) "Give this duty of Excise, and you shall never be troubled with Land-Tax more;" and was likely to make good what he said. And he concurred, out of the intention of his soul, that the King should be easy, to fetch him out of his debts. But it was when he paid interest upon interest, and he appeals to you if ever we can see the bottom of that debt, and what cost the King 600,000*l.* might have been honourably and victoriously done with 400,000*l.* Another thing he has been forced to take the word of honourable persons * for, viz. That the navy has cost the King 400,000*l. per ann.* and had you seen winter guards, 20,000*l. per mensem* must have done it, and summer guards 40,000*l. per mensem.*

* The Speaker and Sir John Ernly.

But the water has been stopped before it came to the mill. Eight, nine, or ten thousand pounds upon petty farms of the Customs. Were such sums ever known, contrary to express laws, to come to private hands, and the Patent upon our Coals which makes your seamen? That the King must strip himself of tables at Court, to set up other mens tables—These are things which dishonour the whole kingdom. When he saw this money given for debts, then comes the additional duty upon Excise, and the *French* wine, and that begat the *French* alliance, and we went into a War with *Holland*, without advice of Parliament: Had it not been for this, would ever the Parliament have advised that the *French* King should see our ports, and a conjunction with him? And had other things hit, we should never have had Parliaments—And these men are left to govern affairs, who should have been called to account for this, if men were not out of their wits—Therefore he would not go into the same snare again—Some think this a kind of mistrust of the King, but whence did that bear date? From that time what Prorogations of the Parliament have we had!—He would ask the Question, whether we have not the same Council still, that entered us into the *French* league? Can any man believe that those persons have less strength? At our last meeting, we would have given the King twenty ships, and we were in no danger, and now we are in the same danger as then, and must give thirty. Would therefore know what the meaning of our Prorogation fifteen months was—This is not the intention of the King—But when the House meet, (perhaps what he says here is repeated to the King, and would the King heard him!) his mark he sets up is, the King and people to be all of a piece—He fears none yet will deliver him from one sort of *French*; and he fears not the other—There are forty ways better then this—But to call the additional duty of Excise “a Revenue!” If Corn be cheap, every thing comes down in the price accordingly, and, if it were not for exportation, it comes to nothing.

nothing. He would have it understood that the King can never want money, when he has need of it—But make “no farther continuation of this duty upon Excise, &c.” to increase new jealousies among the people.

Sir *John Morton*.] He believes that *Neale* has lost by brewing, formerly, and now he gains; but believes that it is by something else.

Sir *George Downing*.] There is not one clear proposition in what *Birch* said as to Barley. In *R. II*’s. time, the interruption of the Customs upon Wool and Woolfells, was but an interval of five days, *ex abundante cautela*. The giving this duty upon Excise, but seven years ago, cannot be construed so as to be a Revenue. The duty cannot commence, but by consent of the people in Parliament. It is said to be “a Land-Tax”. But any tax affects land, and may affect your land more than this does. In *Virginia*, the King has a considerable loss. The neglect of one year’s planting there, by reason of the rebellion, is a very considerable diminution of the King’s revenue.

Sir *George Hungerford*.] *Jestingly desired the Question might be*—“That the Excise might be continued for three years, for payment of Pensions, and nothing else”.

Resolved, That, for a farther Supply to his Majesty, the additional duty of Excise be continued for three years, 189 to 156. [Agreed to by the House*.]

Tuesday, March 13.

The Bill for releasing the Counties, &c. from all Wages due to Members, &c. was read the first time.

Mr *Powle*.] Now there is so great an arrear run into by Boroughs to their Burgesses, that the payment will

* *Marvell* makes no scruple to call the Bill that followed on this Resolve, “The purchase of their own continuance”, and “that it should have been entitled, if propriety had been consulted,” “An Act for the extraordinary occasions of the House of Commons”.

be inconvenient to many, and will ruin some; and may have such an influence that if the Borough will not make such a man an Officer, or chuse such a man Member, &c. they will sue them for Wages, and so they may be subjected to particular persons. As to what's objected "of a Parliament every year," the sum may be as great in Wages, but then it will be in different hands. But now the whole arrear is in one man's hands. He conceives the inconvenience is so great, that he would give the Bill a second reading.

Sir John Birkenhead.] 'Tis dishonourable in the House to do this, when no Petition is sent from any Borough to desire it, representing it as prejudicial to them. Let them that desire it have that self-denying ordinance, Boroughs complaining not of it. The best remedy for the fears of the Boroughs is, for every man to forgive the Wages they owe him. The loss of Wages is the only punishment the law has made for the absence of Parliament-men from their attendance. He fears there is a worse end in it, that men should be posted who are against the Bill. We may, by the next post, oblige our Boroughs, by a letter, to release Wages, without this Bill, and, he supposes, that unless we demand Wages by a writ, after the Session is over, we cannot have it.

Sir Henry Ford.] When he considers letters sent to the Borough he serves for, by eighteen great men, for some persons perhaps no better men than himself, most that are for this Bill, he observes, were not for taxing the people; they would ease the people as well as themselves, and would ease them by their own gift.

Sir Thomas Meres.] There is a jealousy that you will take Wages, if you throw the Bill out, and it will be very ill taken by those you represent.

Mr Crouch.] He never received Wages for the place he serves for, and never will: But the Bill is not fit to pass. Will you take away any man's land? Why will you take away his Wages?

Mr Boscarven.] The Bill was ordered to be brought
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in, and wonders at the motions to throw it out. Some are not paid, who have been here from the beginning ; others have not an equal foundation, who came in but lately. Would have the Bill read a second time, and then Gentlemen may bring in particular Provisoos, if they please, for themselves.

Sir Philip Warwick.] He is unwilling to make incision upon a standing law of the nation, and “ because Corporations may have an awe upon them, by the Wages they owe Gentlemen, therefore that it will be so”, is no reason for it. He moves that as many Gentlemen as will may release their Wages.

Sir Richard Temple.] Would have the Bill go, without a day for a second reading. 'Tis a reflection on the House, to discharge the Wages by law ; but he would have it a free-will offering. It looks as if the House would have taken it, and you make an Act to restrain it.

Mr Powle.] Consider how an action at law stands ; when men have right of action, it may, if inconvenient, be taken away—As the Act of Oblivion, and the late Act of Pardon ; and it is the same as in Acts of Limitation, for the inconvenience of disquieting possessions ; and so right of action is taken away.

Mr Swynfin.] If you think of casting this Bill out, then he would have a Bill brought in to make a law that Wages shall be taken—He is sure, now the thing is here in question, it will put such an awe upon Corporations. for fear of having Wages called for, who never thought of it before, that he thinks it a point of honesty in the House to declare they will not call for Wages from the Corporations, who else would be so universally deceived in so much expectation they should not pay Wages. If we should now lay aside this Bill, it would be scarce honourable, or honest. These eighty or hundred years Wages have been scarce received, and now, that, for fourteen years and upwards, Members have not called for any, this is an intimation between man and man that they will never call for it. As
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if no Rent has been paid for eighty years, and now we will fall on with all that weight. It is an implied promise, that they will not be called for, and that they are forgiven; and the throwing out the Bill will revive a jealousy that they will be demanded. That which obliges Corporations, in this, must oblige as the King's Act, by Act of Grace, by taking away the punishment of penal laws. You would take it as a danger, if asked and denied.

Sir Thomas Lee.] He knows not how long the Parliament will last, and he knows not how his executors will deal with the Borough he serves for, when he is dead; and therefore he is for the Bill.

Mr Waller.] By this Bill, we ask the Lords leave to be bountiful to the people; by making it a law, we do it. We have ordered money for the servants here that attend us—He had rather forty times give it to the Boroughs, than ask the Lords leave. Some in the House are so poor, and some of the Boroughs so rich, that to force men not to take Wages would not be equal justice.

The Lords sent to desire a Conference, whereupon

Mr Sacheverell] Moved, That the Debate might be adjourned.

Sir Thomas Lee.] The House is not adjourned, but in case you agree to a Conference; and then you go on in the Debate where you left off.

The Conference from the Lords, reported by *Sir William Coventry*: "That the Lords do fully concur with the House of Commons, in the matter of the Address sent up to their Lordships on *Saturday* last; and do only apprehend, that it may not altogether answer the ends designed; their Lordships very much doubting this Address may not sufficiently encourage his Majesty to pursue the necessary methods for compassing so great a work, unless the humble advice of his two Houses be backed with such assurances as may let the world see, that if our security cannot be attained by such Alliances as his Majesty shall think fit to make, nothing will be left unattempted to procure it, by our utmost assistances."

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"The Lords do farther offer to your consideration, that the words "and in *Sicily*" be added after the word "*Netherlands*" in the fourteenth line*, and in the twenty second line, after the same word, may be added "and *Sicily*;" it being of great importance to our trade, that *Sicily* be not in the hands of the *French King*".

Debate on the Conference.

Sir *John Mallet*.] He would agree with the Lords as to "*Sicily*;" to that Amendment, but not to the other.

Sir *Thomas Meres*.] The first part of the Conference, is an intimation of what they would have done, rather than an Amendment of ours. He supposes they have left it to you, but as to "*Sicily*," 'tis regular, by the line cited, and he has not seen the same done before.

Sir *William Coventry*.] No man can think him backward in a thing of this nature. He wonders at the Lords inserting "*Sicily*". 'Tis indeed beneficial for trade, and the interest of the *Spaniards*, but if the Question be, Whether it shall be put into this Address, or not, he cannot agree to it. This Address of yours will be the whole mark of the negotiation to steer by, and the King will be tender how he departs from any part of it. Consider whether *Flanders* and *Sicily* are equal matter of your care, and whether one may not be the care of others better than ours, who are to take the thorn out of their own feet. He thus explains himself; the preservation of *Flanders* is important to us, to our very being, and if gone from the *Spaniards*, the coasting lands upon *Flanders* will not give five years purchase; but we are not concerned in *Sicily*, but by trade. 'Tis indifferent to us who has *Sicily*. As for *Flanders*, *Germany* is concerned in the same point with us, but he knows not whether they are equally concerned for *Sicily*, so as to make alliances—*Italy* is concerned for *Sicily*; but it is not so necessary for us to concern ourselves about whom the Princes of *Italy* would have masters of *Sicily*, as it is for *Flanders*, for us to have

* See p. 223.

it in whose hands we would. Suppose a War should be the issue of this Address; it may please the King to encourage the Confederates, by permitting them to levy men here, and that will not be against the Articles of *France* neither. If money must be their support, he believes that every man would be willing to pay money towards it. If towards the end of the War, the *French* would more willingly give up *Sicily* than *Flanders*, he should be loth that an abatement should be made of *Flanders*, and that our compensation should be resigning *Sicily*. We are not a jot safer for the restoration of *Sicily*; (though he would have it restored, but not on an equal foot with *Flanders*) therefore he disagrees to the adding "*Sicily*" in the Address.

Mr *Harbord*.] The Debate is of great consequence, and requires time for men to think of it. As to the leaving out "*Sicily*" in the Address, it is indeed of consequence to trade, and belongs to the care of the *Dutch*, as well as us, and yet they would send no succours but what the King of *Spain* paid for, when *De Ruyter* lost his life there *. Therefore he would not add an unnecessary engagement upon ourselves. The thing is of weight, and he would consider of it, and our judgment is not yet fit to come to resolution.

Sir *Henry Goodrick*.] Though *Sicily* deserves your care, it does not your protection equal with *Flanders*. *France* abounding in ships, if we engage to defend *Sicily*, it will be above our effect. *Burgundy* is, (most of it) in the *French* hands, and now *Flanders* is conquering, being our so very immediate concern, we should look to it. *Naples* is near *Sicily*, a populous and rich Kingdom, and *Milan* also, that in time may settle *Sicily*. He moves not to respite the consideration of this matter, but to leave out "*Sicily*" in the Address, and to let the Lords know your opinion.

Sir *Thomas Meres*.] He is of opinion to adjourn the Debate for a day, till to morrow, ten of the clock. He is wholly against "*Sicily*" in that place of the Address

* See p. 134. Note.

where the Lords have put it. Possibly it will be more proper in another Clause. The word "assurances" that the Lords mention, is a tender point, and there is little need of it in our Address. "Assurance" of our offering is "Money"; and he startles at the Lords meddling with any thing of that. As for "*Sicily*" if the Lords propound War, or a ground of War, by that word, the consequence will be "Money proposed from the Lords". The Address went fair from this House, and the Lords need not add any thing of this nature to it.

Col. *Birch*.] He differs from *Meres*. He is as careful of losing that power of "Money" as any man, for when you have lost that, you have lost all. It seems to him that the Lords are tender in the matter, and he cannot but construe these words of "assurance, &c." so, that the Lords would not touch upon "Money". He knows not what to call it, but it seems to him an intimation of something the Lords had farther to say. He would always say as little, and do as much, as he can, especially when it has been told you "that *Sicily* is our well-being, but *Flanders* our being." He is not of opinion to put off the Debate, but if you have reason to alter your opinion, you have a second concoction by Conference. But to the inserting "*Sicily*, &c." he would disagree.

Sir *Thomas Littleton*.] Some were for inserting "*Sicily*" in the Address, before it went up to the Lords, but he is not for rejecting it, (no man will) because the Lords sent that Amendment to us. *Sicily* worthily holds the second place in our consideration, but it is remote. But because now we have concern for *Holland*, *Germany*, and *Flanders*, therefore shall we not for the same arguments have concern for *Sicily*? We cannot part with it, such is our concern for *Sicily*. The inland Princes of *Germany* have a league with them, and are to make no Peace till *Sicily* be set free—This is an opportunity you have for it, not to be had at another time. It will not follow that you must have immediate recourse to the place concerned—He is not yet convinced to leave "*Sicily*" out

of the Address ; but would have the whole matter linked together—'Twill else be a great disappointment to the Confederates, and a lessening the honour of this House in going less in this Address than the Lords have proposed ; and he is for agreeing with the Lords for "*Sicily*," in the manner he has proposed.

Mr *Vaughan*.] Our concern for *Sicily* is to have it in the weakest hands rather than the strongest, be it *France* or *Spain* ; and he is for adjourning the Debate.

Col. *Titus*.] Whoever makes *Flanders* and *Sicily* of equal concern to us, he knows not where they lye. He will sooner fight for his life, than for his coat or girdle. If a fire be in *Palace Yard*, he would sooner go to quench it than if it were at *Wapping* ; but would do both if he could. The other part of the Lords Answer is as difficult as this, and of as great moment ; and therefore he would adjourn the Debate.

Mr Secretary *Williamson*.] This whole matter will appear of such weight, that it deserves your consideration. There is behind yet a more difficult point than that of *Sicily*. That is but a gradual difference, and 'tis not much material whether you have the word, but you must have the thing in your prospect of the measures you intend to take ; that is, the growing greatness of the *French* King. Considering the weight of the whole matter, and how one thing will work into another, he would adjourn the Debate.

[It was adjourned, accordingly, to the next day.]

Debate on the Bill of Wages, &c. resumed.

Release of the Wages due from Boroughs, &c. was proposed.

Mr *Sacheverell*.] The change of Officers in a town, and the change of Sheriffs, being frequent, who shall have the custody of this Release ? How shall so many persons concerned have recourse to this Release ?

Mr *Hale*.] Reasoning has not been very lucky lately in our Debates* ; therefore he would debate the thing no farther, but speak our reasons all at once in a Vote.

The Bill was ordered to be read a second time.

* Reflecting upon the Excise Debate.

Wednesday,

Wednesday, March 14.

Debate on the Lords Amendments resumed.

Mr Powle.] He is for expedition in this matter, for fear lest whilst we are consulting the securing of *Flanders*, it may be lost. The Lords Amendments speak not positively of the word "*Sicily*," but he is convinced, by the Debate, that it seems the better way to leave "*Sicily*" out of the Address, not being of equal consequence to *England* as *Flanders* is, and therefore not so convenient to stand in the same paragraph, lest they think we value them alike—He would lay the whole weight of the Address upon "*Flanders*." He thinks "*Sicily*" included sufficiently in other words of the Address—And it goes farther than to both "*Sicily* and *Flanders*." 'Tis always the security of foreign powers abroad, to make War with *France* upon equal terms, and for us to give grains to preponderate. Visibly, there is no land power to oppose *France*, but the House of *Austria*. *France* makes encroachments all round on his neighbours, *Lorrain*, *Flanders*, *Burgundy*, &c. If *Germany* be not left in a condition to fight *France*, you will not obtain your end. *France* borders upon us, on the west part of *England*—Whether we name "*Sicily*," or no, is not much material—*Spain* will never enter into Alliance, unless *Sicily* be part of the terms with them. But he would make a distinction, that whenever the *French* touch *Flanders*, *England* is in a flame—He would have all the world know, that it is better to leave "*Sicily*" out of the Address, and to show the Lords by reasons, that it is not of equal moment with "*Flanders*."

The Amendment of "*Sicily*" was, by Vote, rejected.

Mr Secretary *Williamson*.] The difficulty is great, whether of taking in "*Sicily*," or not, on both sides of the Question. He has found that they of *Flanders*

are so apt to lay the whole burden upon us, that it will load our negotiations—He was forming arguments out of the same topics that *Powle's* were, but he would let the Vote go.

Sir Philip Warwick.] The Lords proposition does not induce you to give Money. He would agree to the words “utmost assistance,” as they are, from the Lords.

Mr Sacheverell.] Would have the thing, first weighed, the manner of its coming from the Lords, and the consequence, before you make the proposition, least you be tied up to the single Question we desire not to come to—Such a thing was never offered the House of Commons before. The Lords must either agree to our Address, or add; and none of this is done. They have agreed to the Address in the words of their Answer; and then they only express their fears, and would have “the humble advice backed with some assurances, &c.” This they propose not by way of Amendment. Then consider what the Lords offer—But then 'tis left indefinitely—“Any Alliances”—And those proposed, &c. to be, in consequence, supported with lives and fortunes. He is amazed that the Lords should question that, when the House of Commons “advise” his Majesty, they should fail to “assist” him how to do it. They have always “assisted” in cases they like not, much more in this that they address for. He will make no hasty Motion; but his thoughts are, that, in this Conference, you should show the Lords that it is not regular, nor parliamentary; and when that is done, likewise to let the Lords know “that no Parliament ever failed of “assisting” those methods they advised, when taken”—He will not add any thing here, but show that 'tis irregular, and unparliamentary — And if the Alliances you have proposed force the King to a War, whenever his Majesty acquainted us that those Alliances have induced a War, the House never failed to assist him.

Mr

Mr *Hampden*.] By the rules of Parliament, you cannot take notice of this—There is nothing to graft this upon ; and the Lords may still put in something new. It is against the common way of transacting between the two Houses ; and is a point to be handled tenderly, and the Lords handle it so. 'Tis nice, and handled as such. The Lords are tender of their “Judicature,” well, now nourished up, and grown to some stature—And we are tender of “Money.” If you meddle with this part of the Lords Answer, or take notice of it; you then explain it, *viz.* That the Lords have begun with Money, and take it so for lives and fortunes. The Lord Chief Justice *Vaughan*, when he sat here, (a man of great learning and reason) was against such a Vote—You proffer it, and are to do it, but it is unparliamentary to make such promises. You never have failed the King, and need not promise—He desires the Conference may be for leaving out “*Sicily*,” and then, according to the rules of Parliament, no Answer is to be given to the other ; and he thinks by it you have only pursued the ends you aimed at.

The Speaker.] He takes this to be the case. You send an Address, and with it a Message to the Lords. In the Address to the King, the Lords are to join, and they amend part of the Address. To the regular matter of the Address they concur, but as to the making it to the King, with the reasons, in that they differ.

Sir *Thomas Meres*.] All Conferences are of two parts, something written, and discourse. To the Address written, agree or not—This or that addition, alteration, or Amendment, is in the line, or words—To that written down you give a written answer. That you have done. Now for the matter of discourse only. If the Lords intend to have an Answer, neither House tie themselves punctually to every thing—They touch what they can well answer. 'Tis said, “the Lords did it so tenderly and modestly, that they used but some intimation :”—He would have you do so too, with all

the fairness that may be. It looks as if the Lords started at the word, when they mentioned it, and thought of the King's Speech; and he would have our Answer with all candour imaginable. You have gone as far as you can by your Vote. He is for no discourses. Would have reasons drawn by a Committee for not agreeing to the former part of the Lords Answer, but not put in writing. But for "*Sicily*," would have those reasons in writing—And would have every man's help in it.

Mr *Swynfin*.] The Question is now, what we shall farther do with this Address, sent up to the Lords, and their Message. The Lords answer, "That they concur to the Address," and he thinks we may concur with that variation you have made of "*Sicily*"—And only now draw up reasons as to "*Sicily*," without saying any thing unnecessary, to make dispute whether the rest of their Message be parliamentary, or not. We desire to concur in the Address and matter. They say, we do the same thing desired, as it is in the Paper. He sees no distinction in the thing, and we need take notice of no more. Only there remains to appoint a Committee to draw up reasons why we agree not as to "*Sicily*."

Mr *Vaughan*.] The safety of the King and Kingdom is, that the Lords should concur with us in the matter and end of the Address. There are two principles in it, to secure our own Nation, and secure the *Netherlands*, and the manner is for stricter Alliances. But the Lords apprehend that the end is not brought about, because we do not encourage the King, &c. But we have done these methods. We have propounded Alliances, as proper to bring those ends about. The Lords say "because not backed with encouraging the King, &c. nor assurances, &c." Consider what kind of proposition this is; can we give the King greater security than what we lie under already? We cannot give greater divinely, civilly, or naturally; not only meat to satisfy the present hunger, but to secure from
starving

starving for the future. These intimations from the Lords are not regular, without Amendments of our Address, and possibly hereafter the Lords may do so in Bills. Therefore he is for reasons why we disagree to that part of the Lords Conference.

Col. *Birch.*] When we are once got out of the way, he sees what straits we are put to, and the farther the more we go out. He is of opinion, from one end to the other, that the Lords do not proceed in the ordinary way of transactions; not one step. Before ever the Lords enter into the matter, they tell us of "continuation of good correspondence," without doubt, for some great reasons. This is giving no Answer to our Message, and perhaps he can show you they could not. They tell you why it will not effect the end and the matter, intimating that something might be more effectual. Farther, they offer to your considerations whether "*Sicily*" should be added; this is not the ordinary way. From whence he collects, that the matter they like well, but they offered you the rest in as soft words as possibly they could. Be it supposed, that we had said, "we will support the King in it with our lives and fortunes," before we sent it up—'Tis not the ordinary way of Parliament. If you had ever so much mind to make an addition to what is before you, you could not. It is as fully in your Address already, as if expressed. He offers this—Let the Lords know by a Message, "that their Answer is not in the usual way of Parliament." If you give reasons for it, you admit the thing; and the consequence is, either "agree," or "disagree." There is no third thing that can arise out of it. If they agree with us, he hopes the King will be advised by us both. If the Lords disagree, we go by ourselves. He cannot foresee the consequence of such hintings from the Lords, which may hint us out of all methods of Parliament.

Mr *Waller.*] He is not much in love with the Lords expression. But if it is an original Motion as to "Money," he likes it much worse. When the King came first

first in, there was a treaty with *Portugal* about the marriage with our [present] Queen. The *Castilian* threw papers about in *Hyde Park*, with reflections, to prevent it. The King asked the Lords advice about it, and, by a Conference, the Lords sent for us; and "there was a standing by the King in it," by the Lords, and here was great haste amongst us to concur with the Lords. But he told you then "he liked it not, that things like Money should come from the Lords." But he feared calling to the Bar for it. The House was disgusted, and he was not seconded in it. Consider that it is better to go in the light than in the dark. We ask the Lords concurrence with us, to stop the current of a great Prince—If there be union betwixt the Lords and us, all will go well—When the King shall ask the Lords, "This is your Address, and the Commons bring another." In this Address the Lords make many doubts—The Lords take it not ill that we bring them doubts; they take it well. We are a great nation, if safe at home—And we may be so abroad, unless the Lords and we fall a quarrelling, as we have done these two or three times; look big at one another, and so part. 'Tis not long ago that we joined with the *French* against the *Dutch*, and we gave advice no longer to go along with the *French*; in *Holland* their land was drowned, and their cities taken, and one Vote of ours drained their lands, and restored their cities. What is the King without you? Nothing. Nor you without him. Therefore in defending our neighbours, let us not fall out with the Lords—Avoid all quarrels, for our strength is union with the Lords, as *Sampson's* was in his hair. He moves, therefore, to agree, &c.

[Sir *William Coventry*.] Though there are some mistakes in the method of the Lords, yet what they have said is a concurrence with you. They tell you, "they apprehend it may not altogether answer the end, &c." But they do concur so far as to answer that end. So that the whole is agreed, except "*Sicily*"—And they may
reply

reply to that ; but not in the other matter. Neither can the Lords nor we add any thing farther to that. The course of Parliament is this ; we leave out “ *Sicily*,” and we give the Lords reasons for it. He thinks there is some mistake in the Lords Amendments, which are *in totidem verbis* in writing—But that which the Conferrers have put into your hands, ought to be in two Papers. He looks upon one part of the Paper as discourse, and it would be but an ordinary civility to take notice of it only by way of discourse, by a total silence in your reasons, but would not have it flat—That you would take notice of it. And would so conceive it sufficient, for that you hope neither the Lords nor the King will doubt that this is in your care, and neither the Lords nor we decline such assistances as the thing requires.

Sir *Thomas Meres*.] The Lord Treasurer read the Paper to us at the Conference, and he wrote till he came to the Amendments of “ words in lines ;” and then he believed he should have had the Paper given the Managers. Sir *William Coventry* demanded the Paper. The Treasurer seemed to be at a stand, whether to deliver it, or not. “ Nay,” said *Meres*, “ we must have the Paper by usual Order, because it mentions Amendments by lines ;” and so the Treasurer gave it them.

Sir *Job Charlton*.] The Lord Treasurer *Southampton*, at a Conference, once, gave the Managers the Paper, to help their memories, to prevent mistakes. But it is no more than the courtesy of the Lords. But the other Paper of Amendments of our Message he gave by itself. The first Paper was not entered into our Journal, but the other of the Amendments was ; and it passed over in the House without any Debate.

Mr Secretary *Williamson*.] The matter from the Lords seems natural, as for a person to foresee that his suit should not miscarry—And there is no way for you not to be defeated in your suit, without answering what is necessary to it. That being so, what kind of

Answer

Answer would you make the Lords, to give this Address recommendation to the King? The Lords have industriously used terms of greater civility than ordinary, and he would have you take this in the most favourable sense that may be; and, he believes, the Address is so much in their minds, that he agrees with the temperament the Lords have offered, and would therefore take good time before you give them your mind, and that as to "*Sicily*" in Paper. And for this, to say nothing of it.

The Speaker.] When you declared the *Canary* Patent illegal, you desired the Lords concurrence at a Conference. The Lords knew not your reason why, and could not concur, and so you sent reasons; but they were not entered into the Journal, because they were not delivered to the Lords in writing. So nothing is entered into the Journal, but what are immediate transactions of the two Houses; and these reasons were not delivered in writing.

Sir *Thomas Lee*.] The ancient way was not to deliver the Paper at a Conference: But the Lord that managed said, "I will lend you the Paper, but you must restore it me again."

Sir *Robert Howard*.] Always when Amendments of lines are expressed in a Paper, it is delivered to the Managers.

Serjeant *Maynard*.] If it be declared, that the King will make War with your advice, it is your duty to support him in it—If not, we have voted so much as may induce War, and so may be obliged to maintain it. In King *James's* time, Serjeant *Glanville* managed a Conference, much of the same nature with this. He is of this persuasion, that this from the Lords is an invitation to you to raise Money. Though now spoken softly, yet hereafter they may be plainer. Therefore, as this case stands, he would have a full agreement to the Message, and not be peevish in the manner, when we agree in the matter—You entertain such a proposition; therefore would have nothing said as to the manner.

ner. 'Tis unnecessary to do any thing—It may be of ill consequence at Conferences—Whatever is there is from the House—The Lords bring but their ears to the Conference—But as to what they enter, your book is not Record, theirs is ;—and whatever is done, he would maintain a good correspondence.

A Committee was appointed to draw up Reasons to be offered at a Conference, upon the Debate.

Thursday, March 15.

Counsel was heard at the Bar for Mr *Onslow*, as Guardian to the Duke of *Norfolk*.

Sir *John King*, the Duke of *York*'s Solicitor.] The Writ *De lunatico inspiciendo* was taken out in 1654, and the Duke of *Norfolk* was thereupon found lunatic, and then committed to the custody of the Earl of *Northumberland*, the present Marquess of *Worcester* *, and Sir *Richard Onslow*, and since to the Marquess of *Worcester* and Mr *Onslow*. Mr *Onslow* was no way concerned in levying these fines. They were levied in 1654, before Mr *Onslow* had the custody of the Duke, and those fines were levied in pursuance of settlements made by *Thomas* Earl of *Arundel*, [the Duke's grandfather] not for above 150 *l. per ann.* and then the Duke had intervals. 'Tis objected, "that Mr *Onslow* suffered the Duke to be abroad." He answers, that, all along, the resolution was to bring the Duke over ; but they were satisfied abundantly that he could not be brought over without running the greatest hazard imaginable of his life. In 1652, the then power [*Cromwell*] had a design to bring him over. The Lady *Arundel*, his mother, and the Duke of *Richmond*, sent Mr *Burberry* with commission to bringhim over ; but found, upon consultation of *Padua* physicians, (who gave it upon oath, and under their hands,) that it was not possible, without hazard of his life, to bring him over. In 1654, there was another design of the Committees then in being to have him over ; but, even at that time, there were no hopes of bringing him but bound hand and foot, and with great hazard of his life. In 1656, there was a great plague in *Italy*, and then the intention was to remove him to *Vincenza*, which is but eighteen miles from *Padua*; and for three or four days he was so averse to remove, that he would neither eat nor drink but what they forced down him. So the phy-

* Afterwards Duke of *Beaufort*. His sister was married to the Earl of *Norwich*, the Duke of *Norfolk*'s brother, and next heir.

ficians advised him to be let alone. In 1660, and 1661, there was a design to bring him over—All the rest of the family were satisfied with his being at *Padua*, except the three branches of it who petition. They have let him alone all this while. It has been lately certified (in *February* last) that he has a continual frenzy, and that there is no bringing him over but bound hand and foot. The Duke's estate is 1200 *l. per ann.* and very little over; which Mr *Onslow* has constantly remitted to him, and he has expended it. He has the best house in *Padua*, with twenty servants, who, out of compassion, bind him, for fear of beating out his own brains, till he is in some measure returned again to himself. Mr *Onslow* has behaved himself in his guardianship as a fair and worthy Committee of the Duke's person as a lunatic.

[Debate.]

Mr *Pepys*.] Col. *Birch* said, "He would have the Duke brought back, because he was an *Englishman*, a Protestant, and a Peer of the Realm." He would ask this only Question, Whether a man in such a condition as the Duke is in, who raves "That he is of the Devil's religion," and other words more blasphemous, is not much of a madman? What should he do here? As a Peer, he knows no use of his Counsel, or any reason why he should come over. Therefore he would not agree with the Committee.

Mr *Finch*.] He is against agreeing with the Committee, their matter being complex, of divers things. The interest of the family is perfectly waved by the adverse party. They never proved the lady's interest in the life of this Duke. But another brother offered his hundred pound more than she can pretend to by the Duke's life, more like a father than a brother. One doctor, at the Committee, said, "That it was a fatuity, and that the older he grew the less it would be."—But the more inveterate, the more easily cured, none say—They spoke of remote knowledge, of eight years ago, not to be valued, but now you have a certificate taken upon oath—"Jurando attestamus." They certify now what they did not eight years ago; and he would not agree with the Committee.

[Resolved,

[*Resolved*, That this House doth agree with the Committee, That an humble Address be made to his Majesty, that the Duke of *Norfolk* may be brought home into *England* from his Confinement beyond sea.]

Mr. *Powle* reports the reasons, to be offered at a Conference, for not agreeing with the Lords, &c. as follow :

“ The Commons conceive that the nature of the Address sent up to your Lordships is such, (being for the preservation of his Majesty and his people,) that it can leave no room for his Majesty to doubt of such assistance as the safety of the Kingdom shall require.”

“ Reasons for the Commons not agreeing with the Lords in their Amendment of adding the words, “ and in *Sicily*.”

“ *First*, The Address, mentioning the danger from the growth and power of the *French King*, the Commons conceive, doth, in those general words, comprehend not only *Sicily*, but any other part (though not particularly named) where his Majesty’s prudence shall think fit that dangerous growth should be restrained.”

“ *Secondly*, The special mention of *Sicily* would seem to put less weight upon the preservation of the *Spanish Netherlands*, the conservation of which the Commons conceive to be of much more moment to his Majesty’s Kingdoms than that of *Sicily*; for, though it may be of great importance to our trade, that *Sicily* be not in the hands of the *French King*, yet the safety of his Majesty’s Kingdoms is not so immediately endangered thereby, and therefore ought not to be equally insisted upon.”

The Lords agreed to the Commons reasons, and the Address was thereupon presented to the King by both Houses in the Banqueting-House.

Friday, March 16.

Debate on the recalling the *English* forces out of the *French King’s* service.

Mr *Hale*.] They cannot be little ones about the King that suffer these things. How can we think of securing *Flanders*, whilst we are false to ourselves ? He moves, therefore, “ that such as have been aiding, assisting, or abetting, to men going over to the *French* service out of *Ireland*, (and some have been compelled out

out of Scotland) may be declared enemies to the King and Kingdom."

Sir John Knight.] Gives an account of a ship laden with 500 men in Ireland, who landed at Brest in France. There have been no less shipped out of Ireland for France than 10 or 12,000 men; and this he will make out.

Lord Fitzbarding.] The Lord Lieutenant has stopped some, and taken all the care imaginable to prevent others going into France. He has done all he can by Proclamation, and by stopping such as have attempted to go over.

Sir George Downing.] If any, by order, trick, or connivance, have suffered these men to go over, he would have them declared enemies to their King and Country. The growing greatness of France is of more concern to us than all other considerations whatever. In the very port of London this thing cannot be hindered. Certain vessels have made it a constant trade of carrying men over to Dunkirk, and all that can be done by Law is done already. No power in Law can help it, and they will swear us out of it. There is no want of will in the Commissioners of the Customs, and yet they cannot prevent it.

Mr Garroway.] You are told by Downing, "that the Commissioners of the Customs cannot remedy mens going into France;" and therefore he would have you do it. Vessel after vessel goes over, and Mr Boreman's yatch, in particular, carries men over, and seven others. A Vote of yours may recall all these men. Such a mark of your displeasure may do it, and he hopes you may have such advantage by it, that all may reap benefit.

Sir John Ernly.] 'Tis said, "that from Ireland they send men into France;" and so they do into Flanders and Holland also; but the thing you are upon, is, the countenance of sending more to the French than the other way. There has been a Proclamation against it, and all the care taken that can be, and he wishes a Law
were

were made to prevent it. But it occurs not to him how to prevent it, and he believes as many go over on one side as the other. He believes that the King countenances nothing of this, nor any public authority, but officers bred up that way will fill up their companies, and steal your men, and your money too, if they can.

Col. *Sandys*.] Hears it said, "No care can be taken more than is already."—That is a strange thing! If they forfeit their vessels, and are punished besides when they come home, that would remedy it.

Sir *William Coventry*.] He thinks this can be no long Debate, because there is nothing against it, and he hopes we shall have fruit of it. It would be an unfortunate Motion, if this should not take, and it would be thought abroad as if there was a propensity to *France* of some great men about us, which makes men dare not to execute the Proclamation. 'Tis so plain, that the world have seen it; and no fruit of it but the suspicions and ill will of our neighbours. Now a little encouragement, by a Vote, he hopes may prevent it. We are obliged to support it, and he would have a brand upon such as have suffered men to go over, since the King's Proclamation.

Mr Secretary *Williamson*.] Your Vote proposed is, "That they are Enemies to King and Country, &c." He esteems them so. But he knows not how a Vote of this House may operate; a Vote, *a parte ante*, of punishment to hang over their heads. This is meant to encourage men that execute the Proclamation, and in his place they never wanted encouragement; and he has been as forward to lay hands on the party offending. He submits it to you, what mortification this Vote would be upon those that serve the King, implying a neglect. At *Yarmouth*, within this fortnight, a Captain formed his company, and was stopped at *Ipswich*, going for *Holland*—It is likely that things will have these fates, and their goings over are done promiscuously.

Sir *Samuel Barnardiston*.] He will give you information of what he knows. One that came forth from *Calais* saw 700 men land there to recruit regiments in *France*.

Sir *Charles Wheeler*.] He has two sons in the Prince of *Orange's* service, and he would have no sort of justice come up to an after-game. He would know who they are that have suffered these men to go over; else you will put a great discouragement on those who have hindered it. Lay the load as heavy as you can, for the time to come.

Mr *Vaughan*.] When a Vote of this House, and the dignity of the Crown, are equally despised, it is time to look about us. When we are assisting that greatness of the *French* King, to our own destruction, we should not only have fallen undefended, but unpitied. When a Proclamation is grounded on a Vote of this House, not to be obeyed is a disparagement to Royal Authority. He has always been afraid of mincing the matter in this House. The body politic moves as the natural. We must mind as well not being hurt, as remedy when hurt. The very talking of these things in this House has done good, and he would have them voted "Enemies to King and Country, &c."

Earl of *Ancram*.] We are going about a good work, and he approves of it. Only he finds something of reflection on a person, in relation to forces gone out of *Scotland* into *France*; but let that Lord, whom it seems to reflect upon (the Duke of *Lauderdale*) if he opposed it not as much as in him lay, suffer your displeasure.

Col. *Birch*.] Now you begin at the right end. He is for naming the thing. We have had no luck in naming persons. He would have things find them out. But he has heard of some things stopped going for *Holland*, but of none for *France*. He has nothing to say to this or that person; but when the Nation sees you in earnest in things, you may be more successful in persons. Two years ago a Proclamation was directly

ly against men going into *France*; but if no persons are to be found "Enemies to the King and Kingdom," this has spoiled all. If any Gentleman has any thing more particular, he would hear it. In the mean time, pass your Vote.

The Vote was stated, and passed afterwards, &c.

Resolved, That those persons who have either compelled, advised, assisted, or encouraged the raising, levying, [carrying,] or sending any of his Majesty's subjects into the military service of the *French King*, since his Majesty's Proclamation (issued upon an Address of this House) of the 19th of *May*, 1675, are and shall be esteemed Enemies to the peace and safety of the King and Kingdom.

Mr *Dalmahoy*.] The *Spanish* Envoy complained that men were landed at *Calais*. The King therefore sent a Letter to the Council of *Scotland*, not to do any thing against the Neutrality; and the persons were punished that did the contrary. A Proclamation was sent, and the King has taken all care to prevent it. There are three times the number go into *Holland*, than into *France*. There are in *Holland* three *Scotch* regiments of foot, and two of horse,

Sir *Thomas Meres*.] He observes on this Question how some are winching—He would give the Proclamation all the advantage you can, and thinks it would do well, if you grounded it upon the Address made by this House, not as an ordinary Proclamation of trade, or such things.

Sir *Thomas Lee*.] The Proclamation you are moved for, was that grounded upon your Address of aggrandizing *France*, to the destruction of *England*—A great deal of difference from the other!

Sir *Harbottle Grimstone*.] According to his old manner of speaking, he'll call a spade, a spade. The Address was grounded upon Law, and we must either call them friends, or enemies. *Those that are not for us, are against us*. But let us do one another that right, as to own our former Vote, and to let the thing hunt the persons.

Mr Sec. *Williamson*.] He doubts that men shall be declared criminal from the time you antedate—Should you declare men criminal now? The Proclamation did not reach them. He believes “contrary” the more proper word. If “since,” it must be “contrary”, and if “contrary,” “since” the Proclamation—“Contrary” is the more legal word, for it is relative to the levying of men, and “contrary” should stand.

Mr *Sacheverell*.] He wonders that the officers of the Customs, and one of the Governors in a high place (Col. *Stroude*) should not know of the King’s Proclamation. It seems, gentlemen knew who these were, that ordered the men to go into *France*, and he would have them, whoever they are, be declared, and not shelter the great men who have done this. He hopes the Vote will find them out.

Mr Sec. *Williamson*.] He would shelter no man. His doctrine is, that those that offended “contrary to” the Proclamation should be found out.

Mr *Garroway*.] Put the Question whether the word “since” shall stand in the Question, to come fairly to an issue.

Sir *Richard Temple*.] He has no design to protect those whom the Laws do not protect. In the Proclamation, whoever abets, or contrives, is a principal, and it is not his business to fill his head with Proclamations.

Serjeant *Maynard*.] They that went away before the Proclamation, went for want to live, but there was no such necessity upon the advisers. It aggravates the fault, and lessens not the crime.

Mr *Sweynfin*.] You are told “there is a necessity of the word “contrary;” else it would be no crime at all to go, &c.” But that word comes more properly in another place, and the whole import of it is afterwards.

Mr *Williams*.] In this Vote, what we principally drive at is to punish counsellors of these mens going over. The Proclamation mentions “persons in the service of the *French King*,” and calls them out of it, and prohibits persons going into that service; so that the counsellors

fellors are not within the words of the Proclamation. Perhaps by construction and inference they may be, but not directly “contrary”—He fears it will be but a cobweb Vote. Little things will be taken in, and great ones break out.

The words “and contrary to” were left out of the Vote.

Mr *Sacheverell*.] Now he offered not this of “compelling” in the Vote, in vain; for he has information, upon Oath, that both last year, and this year, the King’s subjects have been “compelled” to go into the *French* service, and were tied like slaves, and put into the common jail; and such as, in obedience to the Proclamation, would not go, had their ears cut off. There is a Master in Chancery’s hand to the information; and, farther than that, one that would have escaped, was tied to the main-yard of the ship, and hanged. The officers came to *Edinburgh* after the Proclamation—After they had tied these men back to back, no officer stopped, nor seized them. Some persons would have stopped these informations. Some great men would have stifled these evidences—This gentleman, for no other reason but because he knew of your Address, and was informed of this dealing with the King’s subjects in *Scotland*, and thought it his duty to inform you, went with these gentlemen to a Master in Chancery, where they gave information of what was done in *Scotland*, &c. And for this, by a Warrant from one of the King’s Secretaries (*Williamson*) now in his eye, his study was rifled, and he made a close prisoner, in a Messenger’s house. He offers his Petition; if he cannot make it out, it is nothing to him.

The Petition was read, subscribed “*John Harrington**,” to the effect *Sacheverell* had opened. The Warrant of Commitment on the back side of the Petition, was read, viz. “You are to take into your custody *John Harrington*, for suspicious practices, &c.”

* This gentleman was the Son of a Cavalier who had suffered much in the Royal cause. His case, as published by himself, under his own

name, is in Lord *Somers*’s collection, Vol. XXX. It is likewise taken notice of, in the MS called *England’s Looking-glass*.

Mr Sec. *Williamson*.] The ground of this proceeding against *Harrington* was, an Oath by one *Harriot*, *Lemmon*, and *Murray*, *Scotchmen*, at the instigation of *Fonseca*, (the *Spanish* Ambassador's Secretary) who had engaged *Harriot*, &c. to the utmost disturbance of the government, to create jealousy between the King and this House, clandestinely seeking out informations from *Scotland*. *Harriot* he found out, and examined him upon Oath. The purport was this: *Harriot* was one of the 500 men carried into *Ostend*, by one of their frigates, where he was not willing to serve, but was put in mind, that if he would pass into *England*, he should have his liberty. He got an Address to *Fonseca*, and this *Harrington* was to have the care of him, and gave him money; but took care to ask him about men pressed in *Scotland*, and other transactions there, and took notes;—which *Harrington* transcribed fair, and took him to a Master in Chancery, where he swore to that paper, though he never read it. But he said to the Master in Chancery “he had read it,” but to him (*Williamson*) he deposed otherwise. This fellow said, “he swore not conjointly what the other deposed, but for himself only, and not to the cutting off ears.” Says *Harrington*, “I’ll get money for you to go thither—That will be good news to Duke *Hamilton*.” This practice was so indirect, and by *Harrington*’s carriage at the Council, he appeared to be the most grown young man in his impudence, and, he believes, in his loyalty—He stands committed for Contempt—He used that style, that air, and mien to the King*, as “It may be so”—“I’ll answer you no more”—And the King said, “I’ll ask you no more.” And for this he was committed by the Lords of the Council’s Order.

Mr *Garroway*.] He rises not up to justify *Harrington*’s deportment to the King, but he has heard that the last day the Committee of Grievances sat, these people

* “Mr Secretary *Williamson* (says Mr *Marvell*) decyphered *Harrington*’s very looks, and but that his Majesty remained still, being flesh and blood, it might have been imagined by his discourse, that Mr *Harrington* had the head of a Gor-gon.”

waited

waited at the door to tell you what they petition now, and, he believes, *Williamson* will tell you what's become of *Harriot*, &c. now not to be found; taken out of his lodgings—Would ask *Williamson* about the commitment being brought hither to give evidence.

Mr Secretary *Williamson*.] He never saw him, since the deposition in his House. *Harrington* said to *Harriot*, "Go off; what you have said may cost you your own ears."

Sir *Thomas Lee*.] *Williamson* tells you of "Oath made of seditious practices."—*Harrington* brought them to be examined about men pressed, contrary to the King's Proclamation. *Harriot* informed a Master in Chancery of it upon Oath, and was not committed for Contempt of the King. See now, the crime is to go to a Master in Chancery, before the King, and he is committed to a Messenger before he was brought to the King, and there as a criminal, and asked Questions, and he would not inform against himself. This, it seems, is "unmannerly" and "sedition." No wonder we have so little account of miscarriages, when things are thus managed in Council.

Mr Secretary *Williamson*.] His commitment was for going where he ought not to go, in matters of State, to give Information, which belongs not to a Master in Chancery to examine. He should have come to those whom he ought. He wants breeding indeed, the best part of breeding, that of the mind, but for the other, he is a well-fashioned man.

Lord *Cavendish*.] He is far from excusing any man that has failed in good manners to the King; but he hears nothing alleged against his deportment at the Lords of the Council "but his looks, air, and mien." Nothing apparent against him, but that he is unwilling to answer against himself. *Williamson* said, "he was committed for carrying Men to depose before a Master in Chancery, in matters of State, before he came to the King's Council;" which he might justify, the Parliament sitting; especially apprehending that some of the King's

Council are highly guilty of what we are about to remedy.

Sir *Francis Winnington*.] He attended the Council when *Harrington* was brought. He observes, that the weight of exception is put upon it; that he was committed that so he might be prevented coming here to inform you. If he knows the matter of fact, it is duty to acquaint you with it. *Harrington*, with another, was summoned to attend the Council, and came. *Harrington* was fairly asked Questions about disturbances of the Government, and what he knew of such a man. That no man is brought thither to accuse himself, is their rule; but to ask if he knew such a man, and what is become of him. Any man that owes allegiance to the King, ought not to refuse answering there. He looked not like an uneducated rustic man. No man behaves himself with more humanity than the King. But he never saw any gentleman more rude to another; throwing his head about—These were only Questions concerning other persons, asked fairly by my Lord Chancellor*. And he answered, "Ask what Questions you will, I will answer you none." Those common Questions that he was asked, no man will deny to another. The Privy-Council may do what a Court-Leet may, *quia male se gessit*. 'Tis a common thing to commit upon rude deportment—And his commitment was, because he was of an ill behaviour before his Prince—The Law allows reverence to the King. He being present when this passed, he thought it his duty to acquaint you with it.

Mr *Williams*.] He stands not up to vindicate ill behaviour, but the Rights of our Liberties. He expected some particular certain cause from the great Minister (*Williamson*) of this man's commitment—He finds only suspicion of seditious practices—So general an allowance is not to be admitted. Men are not to

* "While under examination he was not well treated by the Lord Chancellor," (these are his own words) "and extremely ill by the Lord Treasurer."

be imprisoned upon notions. If he were committed on the account of seditious practices, this is not the manner. No man is imprisoned but by *lex terræ et judicium parium suorum*; by the King's Writ, not by verbal commandment from the King's Ministers. He does complain, and is in great fear of arbitrary proceedings. This way of commitment has been usual, but no Authority for it by Statute or Common Law: But many complaints of it. —“The King's presence!” —How far that may intrench upon the Liberty of the Subject, ought to be examined. He doubts. It is said, “He was judged by his eye and mien”—Every man has not *bonne mine*. Persons ought not to be committed for that in that place.

Sir William Coventry.] He fears that the business before you, the more you handle it, will run the more into your fingers. He could heartily wish the respect-part to the King declined, as it is not to be handled without pricking your fingers. Liberty is a tender thing, and may concern himself as well as another man. A Secretary of State may call a man before him, and if he refuses to answer, he may put him in custody; and when he has him, the King may have notice of it; but the crime of the Chancery-Affidavit, and the disrespect to the King intervening, he is committed for that. It seems, *Harrington* is in custody, and if he be of any use to you he will not be refused, if you send for him to know what is become of *Harriot*; but as to the disrespect-part, he would leave that.

Sir Henry Capel.] This is an unhappy Debate, and he desires we may be rid of it as soon as we can—He would preserve a good correspondence with the King, and seconds the motion, to be tender to meddle with this person. If a common Justice of the Peace may commit him in this case, much more the Council Board. We are gone and lost for ever, if we pay not respect to our Prince, and if ever to any Prince, to this. We know the tenderness of his nature—He would

would send for *Harrington*, and interrogate him what you please, as to the other business.

Mr *Vaughan*.] No man that understands his Duty to his Prince, but will say that *Harrington's* gesture deserves censure. Remember your own Stations : When your Laws are contemned, Justice is violated, and expected to be relieved at a Committee of Grievances ; and if a person be so used that comes hither, you must enquire into it. He would adjourn the business to to-morrow, and let the Petitioner come then to the bar to give you an account of the grievance.

Col. *Birch*.] If we flubber over this day's work, we shall never remedy it again. Such things as these come bye ways—But this shall not fright him—But the Warrant of Commitment must tell you what this is. *Williamson* ought to have secured the person that gave information, as well as have committed *Harrington*. He would adjourn the Debate to to-morrow.

Mr *Sacheverell*.] He loves plain *English*, and hopes other Gentlemen do so too. As this Case seems to him, if this be allowed, there needs neither Star-chamber, nor Oath, *ex officio*—Not only the Council-table, but the Lords House commit for “Contempt—” (A very brave word !) He asks whether any Commitment can be without specifying special Matter of Crime, and not mere Contempt ? Would know, how *Harrington* stands committed ? Whether upon the *first*, *second*, or *third* Commitment ? In the *first*, the Lords of the Council charge Crime—Aggravate that to misbehaviour, and that holds water, and they commit him to the *Tower*. Suppose all the case be true of misdemeanor, he asks, Whether for misdemeanor a man may be committed close prisoner ? And whether they are not to take bail, if it be tendered ? He would have them speak out, and then he will tell you more what he has to say.

Serjeant *Maynard*.] *Harrington* may be brought to the Bar, if he desires it. He may be indicted or bailed. The Countess of *Shrewsbury* complained to the Council-table,

cil-table, that the Lady *Arabella* was treating with foreign Ministers. The Lady *Arabella* refused to answer. By the advice of the Judges (at Common Law) she was committed, and it was no new thing. *E. 1.* A Clerk forged a Fine; the Lord Chancellor examined him; he was convicted, but removed to the Exchequer, and there tryed, and was convicted. Some matters of State must be looked after, in another manner than the common way—He cannot but justify the Secretary's warrant-general, "for misbehaviour." But that about "pressing the men in *Scotland*," he does not. He would adjourn the Debate till to-morrow.

Lord *Cavendish*.] Moves for this other person, *Harriot*, to be brought likewise.

Mr Secretary *Williamson* said.] On his honour and sincerity, he knew not where he was, nor where to find him.

Mr *Harrington* was ordered to be brought to the Bar to-morrow.

Sir *Francis Winnington*.] If persons had the spirit of prophecy, this of his Commitment may be debated to-day; but cannot without his Commitment. Whenever an offence is committed against the King, as Contempt, the person (though committed by the King) may be delivered by *Habeas Corpus*, or Bail. He always will justify the legal Prerogative, but also the liberty of the subject.—Knows no fine laid for mis-carriage, but for Contempt of the Council there is a Statute. The Council may commit in many cases, but in order to Tryal. No man can say they can judge or fine a man. But where Treason is brewing, if a man may not be committed by the Council, he fears the Government will shake—But still in order to Tryal—No Judgment but in order to Bail, or *Habeas Corpus*.

Sir *William Coventry*.] He would not have us run into *Harrington's* crime, whilst we debate it, and make the King stay for us, being this day ordered to attend him at three o'clock.

[The House went up accordingly to attend his Majesty, &c.]

Saturday,

Saturday, March 17.

The King's Answer to the Address was reported by the Speaker, to this effect :

My Lords and Gentlemen,

“ I am of the opinion of my two Houses of Parliament, that the conservation of *Flanders* is of great importance to *England*; and therefore, I assure you, I will use all means for the preservation of *Flanders*, that can possibly consist with the peace and safety of the kingdom.”

Debate on Mr *Harrington's* Commitment resumed.

Sir Francis Winnington.] He humbly conceives the jurisdiction of the Council to be this : The case may happen, that they may commit a person to custody—If he be notailable, he may be committed till delivered by due course of Law—The Magistrate cannot force Bail. 17 *Cha. I.* Reports it not as to this man, but to all—The Council cannot punish the estate, or the person, in giving Bail. He is to have an indictment, or information, preferred against him, and he pleads to it.

Sir Thomas Lee.] *Winnington* tells you plainly, “ That the Lords of the Council may commit a man;” but it must be in order to Tryal, not Punishment. The matter stands now avowed by the Deputy Constable of the *Tower*, that *Harrington* stands committed close prisoner in the *Tower* : What greater hardship can he have ? It takes away preparation for his defence, if on suggestion only ; and that 'tis so close, no man can come to him. He may be sent beyond the sea, or put to torture, and if the Warder of the *Tower* keeps Counsel, the man can have no remedy. He moves, therefore, that complaint may be made to the King, for keeping this person a close prisoner, and desire redress.

Mr Secretary Williamfon.] The King (and for weighty considerations) commanded verbally the Constable of the *Tower* to keep *Harrington* close prisoner. This young fellow, for many months, and some years, has held correspondence with persons, (and there's reason to
commit

commit him to the *Tower*) and goes deep to subvert the whole Government. The thing is laid on this side the sea, and beyond Foreign Ministers are concerned. This is one of their Instruments who meddled with public matters. He questions, "Whether this be a Parliament, or no Parliament?" He holds, "That Rebellion must be against the three States, and not against any one of them." This has been said by this man, and good witness of it. He said, "That those hanged at *Charing-Cross* were hanged by the opinion of twelve men only." The servants of these Lords, now in the *Tower*, enquired for this man, and whether they might have access to him? He leaves you to judge, if that be our interest and concern, when he meddled with foreign Ministers, which every man abominates—The King has warned them not to intermeddle between him and his people. To show you the danger of one of their practices (*Fonseca* the *Spanish* Ambassador's Secretary) on this House, he has told it openly and maliciously (upon the business of the last Address from this House to the King) that the King should say, "That none but rogues and rascals had their hands in it." The King is doing himself right in this, and he hopes you will do so too—This practice of sending men over! He addressed a public Minister, about it, and all that he could obtain in the thing was, that the Minister said, "He was not concerned in the thing." This he reports. This lies hard on his heart, and hopes it does so on yours—The justice and honour of the House are concerned in it.

Lord *Cavendish*.] The Question now before you is, whether the imprisonment of this person be legal, or no? What his crime is, is not before you—Nor that of *Scotland*. We cannot suppose, that the King will do any thing contrary to Law; therefore he would have you address the King to complain of Lord *Northampton**, for detaining this person close prisoner, &c.

* Constable of the *Tower*.

Sir *Charles Wheeler*.] He knows not, but by hear-say, this man—The most dangerous person to our body and concern, and the honour of the House! *Williamson* tells you not of this man's wild discourse—"This Parliament to be none"—He assaulted him at last—And so he cannot but keep it in mind—Should he not say it now, he could not acquit himself as he ought—He is one of the violentest men he ever heard in his life—And that is so close upon him when he looks about him—He called us "a pack of rogues," and, for ought he knows, made faces at the King—When you know this, he hopes it will make impression.

Mr *Stockdale*.] The thing in question now is, Whether this man should be kept close prisoner, being committed only for Subornation of Perjury, and Contempt of the Lords of the Council?

Sir *Thomas Lee*.] He never saw the man, nor knows any relation of his. But he moves not for his sake, but for those we represent—He shall go as far as any man to impeach him, if accused; but would not punish the worst of men (that may concern the innocentest most) without accusation. Let not the nature of the man take you off from that which may concern any man.

Sir *John Ernly*.] If the King cannot do this, (imprison, &c.) his Government is a straw. Every man then may talk, or preach any thing—He would be a King of clouts, if this cannot be. As for the man, examine him, but deny not the King that right, in the mean time, which belongs to him.

Mr *Garroway*.] Would not examine here what is the King's right. But if these crimes of *Harrington's* were so enormous, he is sorry we knew it not yesterday. Then we were told he was committed only for Contempt of the King in Council; and if this be done since, why was he committed before, and we heard nothing of this yesterday but Contempt, &c. And whether that be sufficient matter to commit a man close prisoner for? The Warrant of Commitment yet signify-
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ing nothing else, he would have Lord *Northampton* give you an account why he keeps him so.

The Speaker.] He stands committed for Contempt, &c. and by the King's verbal Order to the Constable, he is kept close prisoner. The Warrant runs thus: "To take into your custody Mr *Harrington* for Subornation of Perjury, and stirring Sedition in the Government, and Contempt of the King in Council."

Sir *Robert Carr*.] *Harrington's* corresponding with foreign Ministers, when they shall say such things of the King, and then carrying himself so at the Council-table, is a just cause of Commitment.

Sir *William Coventry*.] Nothing occurs to him yet against the Warrant of Commitment, "for Subornation of Perjury, and carrying himself contemptuously to the King"; and so he has no cause of objection to that; but "being made close prisoner" sticks with him. If the King has just cause to suspect any man of contriving seditious matters against the Government, he may be restrained some time, a moderate one at least, lest others sift out the matter from the prisoner: But that ought not to be "by verbal Order." But as for them that keep him by a verbal Order, the Law provides that the prisoner may know where to trace the Warrant of Commitment, and have remedy; and he thinks it against Law to restrain the person "close prisoner," without Warrant for so doing; and he thinks the Constable to blame in it, and not the King—Else how shall he come to have his *Habeas Corpus*? He desires you would declare that it ought not to be so now, nor for the future. Certainly the observation of our Law deserves a sheet of Paper for a Warrant; if it be not worth that, it is very little worth. If the Constable had desired it, the King would not have denied it; and it is his fault. For the future, if such Commitments be, in God's name, let them be in writing; and he hopes you will discountenance this.

Mr *Vaughan*.] To imprison a man after another manner than the Warrant imports—The people will not know

know how to be safe. Certainly you ought to brand this Commitment, and to blemish the private Order as contrary to Law, and so the Commitment from the Lords of the Council.

Lord *O'Brien*.] He finds *Harrington* committed “for Contempt of the Council”—That this has pursued the course formerly practised, is certain, without which the Government cannot subsist; and if it had been done 30 years since, possibly there would not have been those unfortunate consequences—If it do not appear that the Constable has such a Warrant from the King of keeping him “close prisoner,” possibly that other may have followed. He is for the Privilege of the subject, but would not wound ourselves when we go about to right *Harrington*.

Mr *Williams*.] From *E. III*’s time till the late King’s, he finds constant complaints of such Warrants from the King’s Council; all declared, by several Acts of Parliament, contrary to Law. “No man can be committed, but by legal Warrant, or matter of Record—” 3 *Char. I*. In the Petition of Right, that Warrant is expressly complained against. This Commitment is “for Subornation of Perjury, and Sedition against the Government.” No man can say any thing, by that Warrant, that he is not bailable. It is bailable in its own nature. But now, no officer, judge, or justice, can come at him to bail him. This Commitment is for an offence bailable by Law, and he is in consequence a close prisoner not bailable. How can this possibly be justified? It is said “there was some Order from the King to keep him close;” but that is directly against the Petition of Right. 3 *Char. I*. “The King can do no wrong.” The Commitment above is a nullity. This is void in Law, and the Constable cannot justify detaining him.

Mr *Sawyer*.] All Commitments are *in salva et arcta custodia*; and if a person be committed for Debt, and the prisoner be unruly, the Keeper may lay irons on him. Or a highwayman may be hindered from his accom-

accomplices coming to him. He says that, if the Constable be informed that dangerous people come to him, without express Warrant, either by parole or authority of his Warrant, he may do it. Such a thing as the Jailor denying his prisoner comforts of life, is punishable in the Jailor; but he may refuse persons coming to him. It is not time to pass any thing that is moved to you relating to the Constable. *Harrington* is bailable by the Commitment. For Contempts, and things properly within the examination of the Council-table, it is lawful for them to commit; and this Commitment is only in order to bring him to his Tryal—He would have him called in, and examined to particulars.

Sir *Harbottle Grimstone*.] Has known it in all his time, that the Courts of *Westminster* have made Orders to commit prisoners to their chambers; and that is *arcta custodia*, confined to their chambers; but neither he, nor any Lawyer, can say that persons were denied to come to them. He sees nothing in the Warrant, but justifiable Apprehension and Commitment. For matters of State, it is convenient that the person committed should be restrained; but if so, he is not to be buried alive, to have no man come at him. How then can he get his *Habeas Corpus*, or prepare for his defence? He is not against bringing in the party that petitions, to hear what he can say. He is not brought as a delinquent, but the House would be informed what he has to say. The King neither judges nor commits any man in person; but if now a man should be committed by a verbal command, see the consequence: By *Habeas Corpus* he is brought to the Bar, but the Constable has another verbal command not to bring him; but the Judges, you will think, will take notice of verbal command. He will farther show you the danger of this: Suppose a man be indicted for Felony, and is to be hanged by the neck, upon his conviction, &c. and the Sheriff will cut off his head; surely it is Murder in the Sheriff. He is committed

prisoner, and the Constable will keep him close. Will *Westminster-Hall* justify it? If a man be ever so innocent, this is the way to make a man nocent: He would agree to the Question "about the illegality of the Constable's keeping him close upon verbal Commitment."

Serj. *Maynard*.] That Argument of "the Constable" is not at all before us. A verbal Warrant is not justifiable, to detain a man close prisoner by, when he comes to a judicial way. Debtors cannot be kept in chains; and Felons, if they die in prison, the Coroner sits upon, to enquire whether they died by duress: Judgment is according to the nature of the crime. Suppose this man be committed close prisoner, by a verbal Warrant—That does not appear yet: You may ask, for it concerns you to enquire; therefore moves to call in the man, to hear him.

Sir *Thomas Clarges*.] Heard not the Warrant read; it seems, *Maynard* has—And that close restraint was by the King's verbal direction. All the Long Robe have said, "All Commitments, by verbal Command, are not legal." There is an expression in my Lord Chancellor's Speech, at the opening this Session, spoken in the King's presence, and therefore may be taken to be by the King's approbation; "That there is a general diffidence abroad in the nation, which, like an infection, begins to spread itself into almost all the corners of the land." These Commitments are some of the causes of that diffidence. It was said of the felicity of *Trajan's* time, "That there was such an exact Administration of Justice, that no man could find fault: A man might think what he would, and write what he thought." He hears not that *Harriot*, the *Scotchman*, is bound over to prosecute *Harrington*. *Williamson* said, "he knew not where he was"—When the Master in Chancery read the deposition to the *Scotchman*, he was not surprized at it; and there is no ground for *Harrington's* Commitment for Subornation, &c."—and moves

moves that we may complain of the Lord Constable, for detaining him close prisoner.

Mr Secretary *Williamson*.] *Harriot*, who deposed before the Master in Chancery, he is informed, is without, at the door.

The Speaker.] Would know to what points to ask *Harrington*, when called in?

Mr *Garroway*.] Moves to adjourn the Debate.

Mr *Vaughan*.] If you adjourn this Debate, the people never will put it out of their thoughts, and he would have a day special to debate the great matter of Commitment, &c.

Mr *Sacheverell*.] Seconds the Adjournment of the matter of Commitment till *Tuesday*, ten o'clock; and would have *Harrington* called in now, and heard what he can say to his Petition. If he says any thing from the purpose, you may silence him. In his Petition, he suggested, that "he was a close prisoner." He would hear what he has to say.

The Speaker.] When the Petition was signed by him, he was a prisoner to the Messenger of the Council (not in the *Tower*) who had orders to keep him close, as he was informed by the said Messenger who kept him.

Mr *Harrington* at the Bar.] I am sensible of the honour the House has done me on this occasion, in receiving my Petition, and permitting me to come to make it out. It is my opinion, and I hope I am not in an error, that the liberty of being tryed *per judicium parium suorum* is the undoubted Right of the subjects of *England*. Parliaments are called for urgent and weighty affairs, concerning the King and defence of the State, and against the mischiefs which daily happen. These are the proper subjects of Debate; and it is proper for the Members of this House to apply themselves to subjects, and they to you, on occasions of this nature. I am come to fling myself upon the Protection of this House, and I hope for it. I met with some *Scotchmen*, who came from *Ostend*, taken by the *Spaniards*, pressed out of *Scotland*, &c. and I did what I thought was my Duty. I acquainted several Members of the House, that they could make it appear, how they were pressed for the *French* service in *Scotland*, after

the King's Proclamation, &c. They did agree that I had Reason and Justice in such an application.—One of them, *Redcastle*, a preacher, and a favourite of the Duke of *Lauderdale*, was offered 20*l.* (it was an inconsiderable sum for a man of his quality) to forbear giving in Evidence, &c. I took in writing what the *Scotchman* informed me, and carried it to Sir *John Coell*, a Master in Chancery, where the *Scotchman* made Affidavit of what I had written. The next day, I was committed to a Messenger, for dangerous and seditious practices, where I was kept in durance, with one *Lemmon*, and Mr *Murray*. When I was brought before the King and Council, the Lord Treasurer acquainted the King, "That this was a Whipster, and a dangerous fellow to the King and Government." The Chancellor asked me several Questions, "Whether I knew *Harriot*?" The Treasurer said, "I told you what he was; he will give you no direct Answer." I was asked, "Whether I went with *Harriot* to a Master in Chancery, and who that Master was?" I said, "Possibly his name might be *Coell*." The Chancellor was studying more Questions — But I desired him "to think of no more Questions, for I was resolved to give no Answer; but, being come thither accused, I would answer according to Law." But this was construed a Contempt, and, though for nothing else, I suffered Imprisonment. My father and grandfather were particular servants to the King, and I owe Obedience to the King, and hope, for the particular actions I am accused of, to be justified by the Parliament, and submit myself to his Majesty. I have given you as just an account of the matter as I can. From the Council I was sent close prisoner to the *Tower*, and forbid pen, ink, and paper. I was locked up, and no person admitted to me, but the person of the house where I was kept was civil to me. I had what meat I would, but was not suffered to walk upon the leads. I do not desire Bail, but the benefit of the Law. *He withdrew.*

[Debate.]

Col. *Birch*.] *Harrington* tells you, "That for doing his duty as a Commoner of *England*, and for Privilege of this House, going to a Master in Chancery, &c. he was clapped up close prisoner." He would have the Affidavit made before the Master in Chancery, annexed to the Petition, read.

The Speaker.] There was no Affidavit annexed to the Petition, and you (*Birch*) cannot make Affidavit of it.

Col.

Col. *Birch*.] He would not make Affidavit, lest he mistake, as the Speaker did in Declaration of the Law about Petitions.

The Speaker.] He mistook only the fore part of the Law for the latter; and he hopes his mistake will never cost the House so much as *Birch's* has done (*in something relating to a Tax-bill.*)

Col. *Birch*.] Whatever his mistake has cost the House, he is sure the marks were not upon the bags— (*meaning that the Speaker had lost money at play, and the King's marks were upon the bags he sent the money in, being the Navy-bags.*)

The Speaker.] *Harrington's* crime is Confederacy-practice, and Subornation of the *Scotchmen* who were brought by him before a Master in Chancery.

Mr *Swynfin*.] The Speaker should have reported the heads of what *Harrington* said, and Gentlemen should not rest upon one another's hearing.

Harriot, the Scotchman, at the Bar.] I am a *Scotchman*, and eight weeks since I came out of *Scotland*, and was Capt. *Reeves's* man, in Lord *Douglas's* regiment, who levied men in *Scotland* for the King of *France's* service. He has levied 1000 men since the first day of *January*. We went on ship-board, and some were willing to go, and some were taken and put into prison that would not go, when they had intelligence that men had not such things in *France* as they were promised. Our officers only put us in prison; afterwards we were put on ship-board, taken by the *Spaniards*, and carried to *Ostend*, where I was a fortnight in prison. They desired me to go into the *Spanish* service. There were about sixty of us that would not take service, who were all put close prisoners. About twenty or thirty of them took service in *Holland*. Those who remained, petitioned the Governor of *Ostend*, in a *Latin* Petition, to go home, and we had a Pass the morrow after to go home. Accidentally as we passed to *Newport*, to go to *Dover* in the King's packet-boat, we met with Capt. *Douglas*, and Capt. *Innis*, who pretended great friendship to us, and came to our lodgings, and gave us a letter to the *Spanish* Ambassador at *Wildhouse*, and directed us to call for Mr *Fontseca*, who speaks good *English*. When we had found out *Fontseca*, he gave us a crown, and ordered us to come again

to him the next day, and desired us to take a lodging. I went to his chamber, where was Mr *Harrington*, whom I knew not; and he bid us go along with him, and he would have good care of us. He sent for us to his own chamber, where was one Mr *Robert Murray*, a *Scotch Laird*. *Harrington* desired to know of affairs in *Scotland*. He gave us a bottle of wine and sack, and came the next *Tuesday* to our chamber at eight o'clock; and afterwards took us (*Lemmon* and *Harriot*) to Lord *Cavendish*, to tell him what we had said to *Murray*, who took a Copy of our Speech. Mr *Murray* persuaded us to give Evidence to the Master in Chancery, where I declared what I knew — *Fontseca* sent for me to his own chamber. I gave *Harrington* a Paper I had writ, wherein were many things “of tying us together like slaves,” and other things done to us in *Scotland*.—But I would not sign that Paper for all the world — *Murray* told me, “That I must keep out of sight of the Duke of *Lauderdale*, or his servants” — Mr *Redcastle* offered me nothing, not to sign—He is brother to my master. *Murray* and *Harrington* told us, “That we should want neither money nor friends, and he would get me to be Lord *Shaftsbury*’s Taylor.” *Murray* said, “That he had sent news to Duke *Hamilton* of all this”—We were put into the common jail. Some came volunteer-soldiers, others were pressed; and those who found they could not have conditions offered, would not go, but were put into another ship, and shipped in the Port of *Leith*. I never saw any Proclamation against going into the *French* service, nor heard of any—One of us was in the Jailor’s custody, on account of borrowing money and running away with it. *He withdrew*.

Mr *Sacheverell*.] This person now denies the very thing he told him, “of their being tied, &c. and that officers went on shore after the Proclamation;” (the same he told Sir *John Morton* and Sir *John Coventry*) and “that since 1675, above 2000 men came in, some of their own accord, but most were pressed out of their beds;” and “that a certain officer carries the King’s Badge, and puts it in his pocket, to put it on as he sees occasion”—And this fellow was positively sent away against his will, tied; and one of them being unwilling to march, his ears were cut off; the soldiers were not suffered to come on shore, nor their friends suffered to come to them.

Lord

Lord *Cavendish*.] *Murray*, one morning, told him, "that these two men were sent into the *French* service; they were taken by an *Ostender*, and stopped there"—*Most* spoke to this purpose: "They were taken on the highways, tied together, forced to go, and their ears cut off." One fellow, endeavouring to escape, was tied to the mast of the ship: This fellow said, "That after the Proclamation, he came ashore."

Sir *John Holman*.] Give him a private Warrant, and he will undertake to bring the persons that shall make all this good.

Mr *Murray* at the Bar.] I am a prisoner, taken on *Tuesday* last—I have been five years out of *Scotland*—I have no estate, office, business, nor law-suit here—I cannot go into *Scotland* till I have some assurance of the Duke of *Lauderdale's* favour; for I was five years ago in irons, by the Duke of *Lauderdale's* means—I was accidentally in Mr *Harrington's* chamber, and went with *Harriot* to a Master in Chancery; who desired me, as he was in a low condition, to help him. He told me, the first time I saw him, "That he was carried with a thousand men out of *Scotland*, against his Will." The other man told me, "He was carried by the King's Messenger." *Harriot* desired that he might have his Oath given him; (a Master in Chancery is an unknown thing in *Scotland*) He is a close prisoner (not allowed pen, ink, or paper) in the *Tower*. A fortnight ago, I made a visit in the *Tower*, before he was prisoner.

The Speaker.] What Members were with you in the *Tower*?

Upon which he was ordered to withdraw, and he did; some Members saying, (though not to the Chair,) "That that Question was not proper to be asked him."

Sir *Thomas Clarges*.] One great Conspiracy you have found out against the Government, viz. levying men, contrary to the King's Proclamation.

Mr *Murray* again.] I went to the *Tower* above a fortnight ago, to wait upon a very worthy, noble Friend, Lord *Shaftsbury*. I went with Lord *Ashley*, his Son. I never saw *Fontfeca*, nor was ever in his company. After *Harriot* had given Affidavit, he was undone for it, and dared not go into *Scotland*. He was offered 20*l.* and to be in the King's Taylor's service, if he would not make Affidavit; Sir *Francis Ruthven*
of-

offered it to him. I asked him, "Why he would be so unkind to his Countryman?" The Duke of *Lauderdale* was to get *Ruthven* to be Mayor of *Edinburgh*. He informed me of taking men from *Scotland* to the *French* service, &c. About 200 of them were shut up in prison after the King's Proclamation—I never promised *Harriot* to be a servant to Lord *Shaftsbury*, nor ever named the Name to him. I gave *Harriot* my coat to carry—He returned not my coat, but changed his quarters, and ran away. The Paper Affidavit was read to him above twenty times over; and I advised *Harriot*, "Be sure you swear nothing but what you can justify." This *Harriot* came several times to my chamber, but never after he got my coat from me. The whole Kingdom of *Scotland* can witness, that men were levied for the *French* service, and put into Jails, &c. I named none related to Duke *Hamilton* to *Harriot*, nor ever told him, "that the news would be acceptable in *Scotland*."

Then *Harriot* and *Murray* were confronted.

The Speaker to *Harriot*.] You took an Oath, and would not stand to it.

Harriot.] I would not swear to what my comrade said—I will not swear conjunctively, but severally. *They withdrew.*

[Debate.]

The Speaker.] Remembers the Precedent of *Withers*, for libelling the House and Government, who made Hymns and Psalms on the Murder of the King, 30th of *Jan.* for Thanksgiving—"The King committed him close prisoner for libelling the House of Commons." (*Out of the Journal*) "*Withers* was brought to the Bar, and was showed the Writing; who said, "he thought it his, but it was not so full as he intended." He was found writing them, and examined by the Attorney General: Whereupon the House *Resolved*, "That *Withers* be kept close prisoner in the *Tower*, without pen, ink, or paper; and none to come to him." And it was referred to a Committee to draw up a Charge against him, and to take farther information. In the 15th of *Char. II.* his wife desired leave to go to him, in order to his recantation, and submission for his Offence. *Ordered*, "That he be discharged, giving surety *Pro bono gestu*."

Sir *Henry Goodrick*.] The Arguments of this day are on two heads: The King's Prerogative, and the Privilege

Privilege of the people. The Prerogative is confessed so far, as to confining persons obnoxious to the Government. *Harrington* and *Murray* are under that head: They are accused of holding correspondence and practices with foreign Ministers. There can be no security to the King, unless there are such powers of confinement in the King. The next is the people's Privilege; and for that we are particularly assembled, which is dear to us all, and to him. He moves therefore, "That since *Harrington* is committed close prisoner, by a verbal Order, we may humbly address the King to signify such a verbal Order, &c. and desire it may be avoided for the future," and that this Debate may cease, and no more be heard of.

Col. *Birch*.] We have been whipped soundly, by that Precedent of *Withers*, with our own cords. The account of *Withers* is abominable, and so is the Precedent; we were then but a very young Parliament. This proceeding is against Law; if so, it becomes us to go all healing ways; therefore he seconds *Goodrick's* Motion, "That the King be intreated that things of this nature be avoided for the future, and that Commitments may be according to the Law of the Land."

Mr *Garroway*.] He is for an expedient to keep us safe in our Liberty, and to end the Debate, that this Gentleman's Case be not brought into Precedent; and that a man,ailable at Common Law, may not be committed close prisoner. The precedent of *Withers* is in relation to Impeachment; but if he had a hand in it, he is ashamed of it. *Harrington's* crimes are not justifiable—But he would pray the King, "That no Commitment of persons, for the future, may be without Bail, for thingsailable at Common Law."

Lord *Cavendish*.] He is yet more alarmed, when the Speaker finds Precedents to justify such Commitments. You did not tell us, that we found *Withers* a close prisoner, and then he confessed what was laid to his Charge; but this person, who was at the Bar, is innocent.

cent. His Case comes not up to *Withers's*, and Precedents may be found for the worst of things.

Sir Thomas Clarges.] When Lord *Clarendon's* Case was before us, it was declared, "That Law of Parliament was the Law of the Land." *Withers's* Crime was pen, ink, and paper; and therefore it was forbidden him.

Sir Thomas Lee replied to *Downing*, who said, "*Withers's* Precedent was when things were fresh in memory of the late murder of the King and the rebellion,"] Yes, the matter of 1652, of renouncing the family of the *Stuarts*, and abjuring Monarchy, was fresh in memory; and then *Downing* was Ambassador to the States of *Holland*. "As to Monarchy, the Government of *England* must be by a Commonwealth; they could not be safe without it."

Mr Solicitor Winnington.] With what diligence he could, he has observed this day's Debate; for if nothing be in the Case before you, but the written Commitment, the more it is seen, the more Gentlemen are satisfied. 13 *Char. II.* Crime of defaming the Government—Though the Warrant runs, "to be kept *in salvâ et arctâ custodiâ*," yet the person is bailable. He denies any parole Commitment of this person. The King's parole is an Advice and Direction, an Admonition, viz. "You must keep him close, according to Law." He cannot say that a parole Commitment is justifiable, but this is not. Is it not an ordinary thing for a Justice of Peace to order the Jailor to keep a man close, when the thing is in fresh pursuit? When in Courts a man is accused of Treason, that more of the gang may be caught, the person is kept close, but not for any length of time. This is an instantaneous direction, and justifiable. This Gentleman was committed two or three days ago for seditious words, a good cause of Commitment, and so judged in the Petition of Right; and *Mr Selden's* Case, not for seditious practices generally, but for answering what he

he said in the House: That will import, as if something was illegally done abroad: That of "close prisoner" must have a charitable construction; and when the bottom is considered, no man intended to go beyond the tether of Law in this Commitment.

Mr *Harrington* was dismissed, and the farther Debate of the thing was left *sine die* *.

* That the Commons, who are the express Guardians of the people, and who had so lately taken arbitrary Commitments, by his Majesty and the Privy-Council, into their consideration, in order to make a better provision for their security, should all at once grow so negligent of their trust, as to suffer any one individual to apply to them in vain for protection and deliverance, can never be wondered at enough; and yet the Session before us produces an instance [the above] remarkable enough, on all accounts, to challenge a place in the History of England.

Ralph.

What follows is taken from "Mr *Harrington's Case*." Whatsoever Sir *Joseph Williamson*, or any other person did offer against him, did not appear to be made good, upon his *Habeas Corpus*; for, on the first day of the next Term, his Council moved for that Writ, and had it granted; and he was accordingly brought up, and the cause of his Imprisonment returned. The Report was, the pretended Subornation aforesaid, and no other; yet he was enforced by the Court to give 4000 *l.* Bail, to appear the last day of the Term, which he accordingly did; and there found an Information put in against him for certain words pretended to be spoken three quarters of a year before; so that the Subornation of these *Scotchmen*, to disturb his Majesty's Government, and all other discourses of Sir *Joseph Williamson* against him, for which he had lain so long close prisoner in the *Tower*, to the great prejudice of his health and estate, utterly vanished, and appeared, as they really were, untrue suggestions." The

words of the Information were, "Our Government is by three estates, and if rebellion be not against all three estates, it is no rebellion." The Tryal came on at *Guildhall*, before Lord Chief Justice *Rainsford*, Dec. 3. To prove the Information, there were three witnesses, of which the first was a Papist, taken out of *Ilchester* jail; the second was proved to have been a Cheat; and the third had formerly been a Highwayman. In short, after many hardships from the Court, and King's Council, (his own Council, Mr *Wallop*, being also abused and affronted, and threatened to be flung over the Bar, only for pleading for him, and assigning Error to quash the Information) the Jury finding "that the words were spoken," though several were heard to say, "they were not agreed nor satisfied in it," Mr *Harrington* was fined 1000 *l.* and committed prisoner to the *King's Bench*.

Afterwards his publishing his Case gave such an Alarm to the then Lord Treasurer, that great endeavours were used in the House of Lords, under the pretence of violating the Privileges of Parliament, to have used him in the most barbarous manner; but of this having timely notice from his friends, he first decently parted with a jail, and then the Nation; thinking it much better to trust Providence, than his merciless enemies. But the discovery of the Popish plot, which happened soon after, and the Lord Treasurer's being sent to the *Tower*, made the obtaining his pardon not be thought unseasonable at that juncture.

Monday,

Monday, March 19.

Lord *Cavendish* and Sir *John Coventry* moved to enquire about moneys levied upon Wine-Licences, against Law; and named Mr *Powle*, who gave them the first Information of it. Mr *Powle* was out of the House, and the Motion went off.

Tuesday, March 20.

A Bill from the Lords, entitled, An Act for farther securing the Protestant Religion, by educating the Children of the Royal Family therein, and providing for the Continuance of a Protestant Clergy, was read the first time*.

[Debate.]

Sir *Harbottle Grimstone*.] He has heard of this Bill, and liked the report of it well, but never read it. He finds, that it intends "securing the Protestant Religion, &c." but he would not, under pretence of providing against Popery, do things against the legal and monarchical power of the Kings of *England*. He wonders that it passed the Lords House, and made no more noise than it has done. He thinks there is a vizard upon the face of this Bill; and he hopes every Gentleman here will give his helping hand to pull it off; and then we shall see the spots on the face of this fair Bill. In the last Session, the Lords were very busy in framing a Test for people to take, to secure the Government, &c. which miscarried; now here is a Test provided for the King, and no man has less cause to be suspected.

* This Bill was called by one Party, "A Bill against Popery;" and, by the other, "A Popish Bill." It was of the *Janus* kind; for under the pretence of educating the Children of the Crown in the Protestant Religion, it admitted the Kings of *England* to be successively Papists. They were, indeed, required to make a Declaration upon Oath, "That they did not believe in Transubstantiation;" but if they refused it, they might. And all they were to pay for this licence was,

the parting with so much of their power as regarded the filling all Ecclesiastical vacancies, (but such as were in the gift of the Lord Chancellor) which were then to devolve to the Bishops, under certain limitations, as expressed in the Bill itself; (to be found in *Marvell's Growth of Popery*) so that, in effect, this Bill was no better than a compromise between the Church and the Duke, by which the latter passed a sort of fine to the former for being of what Religion he pleased. *Ralph.*

Religion

Religion was delivered by Christ and his Apostles, and when there is cause, we are to assert it like Christians. It is not unknown with what care and courage the King educated the Duke of *Gloucester*, (perhaps not without the displeasure of his Mother) which God, he believes, gave such a blessing to, as made way for his happy Restoration. (But this by the bye.) He will come a little closer. He finds in this Bill, that there is an engrossing and appropriating "the administration of this Test to be given the King by the Bishops," exclusive to the Commons and Peers of the Realm—Are we not all Christians, and as free to burn when they may chance to turn? This is such a design, if looked through, as possibly never was in any Parliament before. Suppose the King shall refuse the Test—Then here is provision in the Bill, "That the Bishops shall supply the office of the King, and are to present to the King three persons to fill up vacancies in the Church promotions, for the King to chuse one." And suppose the King will not chuse one of the three, and will nominate another; and then the Question will be, "Whether of the two shall we stand for?" He is sure, that, before the Conquest, the King made Bishops *per traditionem annuli et baculi*; but now, it is true, it is done by *Congè d'elire*, but yet the King has the making of them; and if he does not make them, he is sure they are all in a *præmunire*—For his own part, he will defend the Crown of *England*, and the right of it—He is an old man, and hopes his opinion will descend upon them that shall succeed him—We must deny the Bishops this Precedency in Ecclesiastical matters. If this be, this is a design to pull off the Crown from the King's head at one pull. He is not of the Bishops half crown authority in this patriarchal power they would get—Consider the vast changes this would produce in the Government; it will call for another Oath from the King, besides his Coronation Oath. The main thing is, to maintain the Doctrine of the Church of *England*. What think you of the Oath of Supremacy? If the
King

King be a Papist, it consists not with that: Is it for the safety of the Nation to have that taken off, and put into other hands? The Test from the Lords came not down to us the last Meeting; and he hopes that Allegiance is where it was, and ever will be. The King is *sacro oleo unctus*—He hopes that Religion, Duty, and Allegiance will ever give duty to the Crown, when the Church did most suppress it—This power, in the Bill, to the Bishops, is not in our power to give. It has been said “that Parliaments are omnipotent;” but as great as that power is, there are things not in the power of Parliaments to give away. Monarchical Government cannot be put into a Commonwealth; it is an Authority we have not in our Custody—Suppose we present the King with a Law to cancel *Magna Charta*, and to be all slaves;—if so, all would be void in itself. There are things not in our power to do; and he thinks this is one of those things, and would throw out the Bill.

Sir John Birkenhead.] In the Long Parliament, there were Bishops that turned, &c.—

Mr Mallet.] No wonder the Lords send you down such a Bill as this, whilst they keep such wise and understanding Lords in the Tower, &c.

Sir Thomas Clarges.] Remembers a story of the Countess of Shrewsbury, and Mary Queen of Scots: The Queen of Scots desired “That Queen Elizabeth would take no ill impression of her, for she wished much prosperity to the Queen.” The Countess of Shrewsbury replied, “She believed the Queen loved Queen Elizabeth as much as she did; but when Popery takes her away, you will be Queen, and all that Affection vanishes.” He would not suppose that Popery may be, but should we be so unfortunate as to have a Popish King, and the Pope make Bishops, must not these be allowed of? In the Gallican Church, some Bishops the King nominates, and some are of the Pope’s nomination. If the Pope makes the Bishops *de facto*, he is Bishop, though the King separates the temporalities. But should a
Popish

Popish King be, where is our security? He would have this seriously considered—But would rather have an Act of Association, for securing so terrible and dreadful a consequence; and desires that the Bill may be read here no more.

Mr Sec. *Williamson*.] This is the first time of reading this Bill, and it is of an extraordinary nature; and because the case is extraordinary, therefore it is an argument for a second reading. The purport of it is this: "That should the misfortune befall the kingdom of a Prince of the *Romish* Religion, that then you may endeavour to preserve the Protestant Religion as one man. By that means, to have a Protestant Clergy, three are to be presented to the King, by the Bishops, to fill up Vacancies; and the King is to take one." If that objection be valid, "That this is out of our power to do," it is no purpose to make any Laws. Though this Bill comes not up to the whole of the cure, yet this House and the Lords may make it up—Though the Church of *England* be in a body of Professors of the Protestant Religion, yet to be taught they must be sent; and whilst we have Protestant teachers, he hopes we shall be so ourselves. It is said, "this Bill is to raise a Faction between the Laity and the Clergy." He thinks this Test proper to be given by such persons as may be supposed uncorrupt and untainted in Religion—The Church of *Rome*, corrupt as it is, sees a great part of the world differ from them in administration—The Church of *France* has its own *pragmatica sanctio*; and the Confessor does not contend that with his Prince. This Bill is a weighty matter, and for that consideration moves for a second reading.

Sir *Thomas Lee*.] This Bill looks strange; he knows not what to call it, unless an Essay—If nothing will attain that end but this, all other ways are free to you this Session. The first part of the Bill is, "That the Bishops shall give the King the Test;" and the second is, "for the education of the King's children to be under the Bishop's care from the age of seven to fourteen."

fourteen." It is to a good end for children, when fit for little but play, to be taught the Protestant Religion. *Huddleston*, the Priest, is exempted from this Act, and may appear in all his habits*. Next, he observes, that, as the King can do no wrong, so, by this Bill, he may be guilty of a crime; he shall not have such and such powers—It is a disability for something not done, and implies a crime—He knows not how you will put the Supremacy into the hands of the Church—Hears a disputation of the King's Supremacy—If it seems your opinion, that sometimes he shall not do it, he would be sorry to see that time; it frights him, when he thinks we must be made use of to try our temper how far we will bear—As in case the King have not power in Ecclesiasticals, it may be in Civils also. He knows not what these things may grow up to in time. He is concerned in not putting the Crown of *England* into disputes, when it is said there may be such a crime as the Crown may be disabled thereby. Is not this in the nature of convicting a Popish Recusant? He has heard (he was not old enough to remember it) that at the beginning of these times there was a noise of Papists and Popery; but what did provoke the people more than fears of change of the Government? This Bill may be an umbrage of inducement to a standing Army—The King cannot, by this Bill, present to Bishoprics and Prebendaries—It leaves the Lord Chancellor free to present, and the person presented is capable of preferment. He may, though the King shall not—Here is good care taken of every body but the King, in this Bill. He sees not the use of this. What you have already before you of a Bill of Popery, may be of use. You will, by this Bill, disinheret the Crown; and this has nothing of the loyalty of this House of Commons, that yet did never any thing like it. He would reject it.

Sir Job Charlton.] This arguing is proper for the second reading of the Bill. The Question is now, "Whether the Royal Issue shall be bred Papists, or not;"

* For being instrumental to the King's escape after the battle of *Worcester*.

not ;" and this Bill may be made a good one. *H. VII.* came to the Crown by a title from his wife—His attainder was purged by coming to the Crown, and whatever you do to the Crown, the possession purges all that away—He may be of what religion he will, be he Mahometan, Jew, &c. Allegiance is not tyed to his religion, but to his title to the Crown. The Bill intends "supplying vacant Bishopricks by three presented to the King." What can you do more mannerly to a Prince, than to tender him three, and he to chuse one? The same as chusing Sheriffs by Act of Parliament—Pray God other folks of different principles use the King so mannerly! If to speak against the Bill at the second reading, he should not think this unmannerly—'Tis objected, "that, by this Bill, the Popish Bishops may come in"—Read it the second time to see—But 'tis improbable. For in times of Popery there was *præmunire*, *E. III.* to take any Ecclesiastical Jurisdiction of Bishoprick from *Rome*—"Forfeited lands, and goods, and imprisonment during life, and to be out of the King's protection." The Church of *England* oppose *Rome* all along in this matter—He is a strange, weak King that would ever admit it again. The Bill being in design "That the Royal Family should be bred Protestants, and to prevent Popery," show so much respect to the Protestant Religion, as to give it a second reading.

Mr *Vaughan*.] We owe a natural Allegiance to the King, as well as a political. He thinks this Bill will be an unfortunate stain upon the Nation. The King was once deprived of this Kingdom by Arms, and that was by the power of some few persons. But now this Bill will do it by Law, which is the sense of the whole Nation. The Laws since *H. VIII.* contended to settle the Supremacy on the Crown, that you would now take away. Shall the King give this power away, and lodge it in the Ecclesiastics? When the King once passes this into a Law, he divests himself of his right, and puts it into the Bishops.

Mr *Sawyer*.] He is sorry for the passage of "taking away the King's power once by Arms, and now by Law," which fell from *Vaughan*. All Laws you can make are a taking some rights from the Crown. 'Tis so far from a possibility, that 'tis an easy probability, that this suggested in the Bill may happen, and this House is always for suppression of Popery—And this supposes the consent of the King—'Tis said, "That the King's Children's Education, from the age of seven to fourteen, in the Bishops hands, is ineffectual"—They may, at that age, learn their catechism, and it is not a time for play only, but education and learning, and at that age every private man may chuse his guardian, and they are careless of their education if not rooted by that time in the principles of Religion. He would be glad to see a Bill for the Education of the Children of all men. In securing a new Clergy upon such a change, we have gone a great way to secure Religion. This is no imposition of an Oath upon the King. All alteration of Laws is altering the Coronation-Oath as much as this Bill—But this, it seems, is the fault that this power comes to the Bishops, and that it may come to the lay hand. He challenges any man to show him that Protestant Bishops and Clergy ever invaded the Crown of *England*. They have been great props to it. He is for a second reading.

Sir *Robert Howard*.] You were certainly well told by *Vaughan*, "That this Bill implied little less than the thing once done by Rebellion, and now by Law," and much less to be done by Rebellion, than by Act of Parliament at one stroke. You were told by another, of "the noise abroad the rejection of this Bill would make;" and must you level your Acts of Parliament by that? It must be by arguments in the House, and the nature of the thing solemnly abstracted, the reason of the thing. He shall not touch upon that of the Education of the Children—The main scope of the Bill is for the Bishops. If the Act for Sheriffs was penned as this Act, it would be stark naught; the Country to chuse

chuse the Sheriffs, and there in Sheriffs as this is in Ecclesiastics. If then we are told that there is no proper way to secure the Religion but by Ecclesiastics, if a Test had been proposed to be taken by all that have Patents of places, and the Long Robe that are in offices of Judicature, then you would go thro' with it. He has been told, that the Clergy have been tampering in their prayers already *. This Bill will make a perpetual quarrel with the Clergy ; and when we were under one faith with *Rome*, we were still complaining of their encroachments. Secure us that a Protestant Clergy are not flesh and blood, and it is but a charitable opinion, and no more, that the Bishops will not make an ill use of this power. He believes that no Clergyman will be Popish ; but suppose they be, if the King and they be both inclined to Popery, who shall give the Test then ? There are 25 Bishops in the Lords House, and though the Bishops desire not this power, yet it is here in this Bill—And if the King refuses this Test, here are so many Kings in his stead—An Act may take from the King, and yet be good Law—A Popish King will take care that no Judges shall be made by him for maintaining our property. Why should not there be a Test for the Judges, and the Bishops to make them too ? After all this, if the King will chuse the Bishops, what opposition can be made ? Shall we fight for these Bishops against the King ? An Act of this great nature he sees not one good effect from—Only he hopes, spirituals being rectified, properties, and all that, will not be left without notice. He believes the Lawyers will not tell you—All under-preachers are left free. He is against a second reading.

Sir *Thomas Meres*.] He is sorry to differ from Gentlemen that he has not differed from this Session—He sees not the whole turn of Laws, and scheme of matters of Popery point now † ; and a new remedy must be appli-

* It was reported, that Dr *Parker*, in his prayer at *Canterbury*, should say, in praying for the King, &c. "In all causes, and over all persons temporal, I say temporal."

† *Sic M. S.*

ed. It is said, "In some parts the Bill is too big, and in other parts too little." But you may enlarge and streighten them. Throw not out the Bill, and you may be in a lethargy, lying on your backs, and giving yourselves no help unless some comes from Heaven.

Mr *Finch*.] This Bill is for the security of the Protestant Religion, and though this will not totally do it, yet it will go a good way towards it. The Popish Lords and Papists abroad are against it, and therefore he is for it. He thinks it strange, that so many Gentlemen, eminent for the profession of the Protestant Religion, should concur with the Papists against this Bill; but they apprehend encroachments on Royal Prerogative. This is not a total deprivation of the King's disposing of Ecclesiastical Promotions; but what he may take off when he pleases. It exercises his Prerogative still, though not in his person, yet in his Ministers, the Clergy—*Non dominus rex nisi per judiciarios suos*—Not in the Crown. If a Lay Patron present a Clerk to a benefice, he is to be instituted and inducted by the Bishop, and if the Bishop does refuse, the Lay-Patron may bring his *quare impedit*, and this takes not away property. But 'tis said, "Why is not this power given to the Judges as well as the Bishops?" *Transire a genere ad genus* is the first time he heard was good logick—But you are safe, for the Lord Chancellor may present, and the Bishops and he, by the last Law, are under a Test, and you are secure of them. The safety of the Protestant Religion depends on the fountain—That that is pure, you are told. "Suppose the King be a Papist, &c." that is an argument for the Bill, that the King may not take those Bishops imposed on him by the Pope.

Serjeant *Maynard*.] Some things in the Bill may be mended, but the general end of the Bill is, to keep us a Protestant Clergy. No man can withstand that. But, to throw out the Bill for what he has heard, amazes him to hear it. We must not think ourselves secured against all accidents of Popery, if we
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may not suppose a change. There is no mention in scripture, but where a true King, true Religion. It is said, "This changes the King's Prerogative." If it should fall out to manacle the King's Prerogative, we shall not, and the King may not, be short-sighted in that, before he passes it. Whence comes this fear now, not thought of before? Mention is made of "this being like pricking of Sheriffs." That is a great mistake; for Sheriffs were formerly chosen by the Counties and Coroner; and the Counties must pay for his default: But now, to ease the Counties of that charge, the King nominates him. In most Bills the King's Prerogative is shortened in some measure or other. This Bill may be corrected if it does. Formerly, whenever there was a weak Pope, we were strong—One King of *England* wrote to the Pope, "That if he did it, the Lords and Commons would not obey nor agree to it." The King may make Bishops, and take off these ceremonial ways of doing it from *Rome*. As for rejecting the Bill, if there be a general fear in the Nation, you must not despise these fears—He is confident there are these fears. He confesses, he does not understand entirely what the Bill is; but he believes it done in the Lords House upon great reason. When so much is said, for the generality, for the safety of Religion, let us show ourselves zealous to preserve the Protestant Clergy amongst us. Let it never be said, that a Protestant Parliament threw out this Bill.

Lord *Cavendish*.] Prerogative is the greatest in *France*, and *H. IV.* of *France* was forced to fight for his Crown ten years: And at the end, had he not been a Catholic, he had never had it. And after he changed his Religion, he struggled for it some time. He sees no reason why the nomination of Bishops should be in Bishops only, nor sufficient for Education of the King's Children. He would sooner lay aside this Bill, and make one for prevention of Popish Clergy, and securing the Protestant; and the House to go into a Grand Committee for that purpose.

Mr *Hale*.] Though *H. IV. of France* was opposed, yet it was by none but Rebels. He will not foresee what may happen to *England*. But if ever we shall be so unhappy as to have a Popish Prince, we must have recourse to our prayers, and not contend with the Crown for Religion's sake. He hears it said, and he wonders at it, "That Gentlemen that are against Popery, should be against this Bill." But he is against Popery because he is against this Bill, which is like empty casks for whales to play with, and rattles for children to keep them quiet. If any thing could be done by this Bill for preventing what is feared, he should not be against it; but no effect can be of it—He sees nothing in it to keep the Bishops from being Papists, and every Lay-patron may present to a benefice notwithstanding, for all this Bill, and they that preach, will make the people dance after their pipe. The children must be brought up under the Arch-Bishops of *Canterbury* and *York*, and the Bishop of *Durham*, from ten years to fourteen, from the time they speak, to the time they begin to think. An empty thing! And he would throw the Bill out.

Sir *Thomas Littleton*.] He fears that in this business we shall rather promote than hinder Popery. We have had a sort of Clergy, ever since Arch-Bishop *Laud's* time, too much addicted to Popery. Arch-Bishop *Laud* professed, "That it was the best way for us to unite with the Papists;" and this was his whole endeavour—And men of that leaven are still in the Church, and he thinks them very dangerous that byass that way. There is a Book lately printed, (said to be Dr *Floyd's*) which grants you not "That all downright Papists should have toleration," but leans that way—If we establish this power in the Bishops, that this Bill imports, the Crown and they may make a bargain. They love dominion, and if they may have it, they may gratify their Prince another way. If he establishes them in power, they have something in this Bill to give him. He is apt to fear, that the Protestant Religion

ligion will not be maintained by these sort of men. He is for the Church of *England* more than these sort of men. 'Tis said, "The Popish Lords were all against this Bill," which is but a report. But he is informed, there was no appearing against it by them, till the last reading of it to pass it, and that is not a way to hinder a Bill; it was only to make a show, and not in earnest. He would not have you deceive the Nation and the Crown too; and is not for this Bill.

Sir *Edward Dering*.] He hears it said, "That many Bishops now, ever since Arch-Bishop *Laud*'s time, are addicted to Popery." The Clergy are as orthodox now, as at any time before—It is said, "The Bill invades the Prerogative." No Bill but either takes from the Prerogative or the Privilege of the subject—If the King pass not this Bill now, 'tis a Question whether we shall ever have a Bill of this nature again—This does not contradict nor slacken any Bills of Popery we have already before us—When we find so much sense of Popery in the upper House, we should the rather concur; especially when we would *worship the God of our fathers*; and he would have a second reading of the Bill.

Sir *Thomas Littleton*.] He wonders what ground the Speaker had for confirming *Dering*, that he said, "The generality of the Clergy were addicted to Popery." There is a book in print, in King *James*'s time, that of *Laud* against *Vossius*, that can testify what he says; and King *James* and Queen *Elizabeth* were for keeping a good correspondence with the foreign reformed Churches. But in his time, there has been another way practised, which Dr *Heylin* sets out in print—Whoever are upon that leaven, he dares not trust the conservation of Religion in those mens hands—What he said was not generally of the Bishops—God forbid!—He hopes they are not. But some there are. That this has been the method in the Church, he would not have said, but for Dr *Floyd*'s last book (he is said to

be the author) and this has been the general method of late times.

Col. *Birch*.] He will make no addition to what has been said, but an observation. As this Bill is now penned, he has not heard one man show any safety in it. But as to putting things in it, if of the same nature, he is against it. He would have any man find five Presbyterian Ministers that signed any engagement in the late usurpation, and he will show fifty, on the other side, that did—This is presented for safety of Religion; but if he had a mind to bring in a new thing, he would lay the people asleep, and say, “Our Church is secure, trouble not yourselves;” and this is an easy way for Popery to come in upon us. His opinion is, that when this Bill is passed, the King is not safe. Nothing can stand against a Popish design when ripe. All disorders are in this Bill, and it lays us asleep till exercised. But if to secure yourselves, he will tell you how—Be secure of a free House of Commons to come here, and never fear Popery—And one half of the Excise and Customs, grant them but from six months to six months, and your work is done for Popery. If we should have a Popish Prince, it may be toleration for himself; but, in this way, never fear Popery.

Sir *John Ernly*.] *Birch* tells you, “If any will show five Presbyterian Ministers that took any engagement, &c. he will show fifty, on the other side, that did.” But he would have *Birch* consider, when General *Monk* came up to *London*, how many of them signed for the Government by a single person. If the Lords had sent you down but a blank to secure you from Popery, would you have rejected it? He is for a second reading.

Col. *Birch*.] As to that point of “The King, when General *Monk* came in,”—where you find one of them that will submit to the Government without a King, he will find fifty that did; and for a free chosen Parliament, if the King should die.

[The Bill was ordered to be read a second time.]

Wednesday, March 21.

The House proceeded to the hearing of the cause of *Newark*, touching the sending of Burgesses to serve in Parliament; and Counsel being called in, Mr *Savile's* Petition was read, and the Counsel heard.

[Debate.]

Serjeant *Crooke*.] During Session of Parliament, and the Parliament sitting, 'tis most plain that Letters Patent, for creating Boroughs power to send Members to represent them in Parliament, have been granted; and most of the Members of the House serve for Boroughs, as much by Creation by Charter, as Prescription, and Letters Patent may restrain the manner of Election. If that be granted, that the interest is wholly in the King, he may create *pro bono publico*, by "*ordinamus* in the Charter, without "*concedimus*," and Burgesses are thought a benefit to the Nation—*In the multitude of Counsellors there is safety*. 'Tis objected "That in this Charter they have no voices in the Election of Burgesses, who, nevertheless, pay wages to them for their service in Parliament." In all Charters, where the Election is restrained to the Mayor and Common Council, yet all the body of that Corporation pay wages tho' they have no Votes in Election—Being better for Parliament-men, when to the whole body, if the case will bear it—The first Letters Patent were "to the generality"—Where the Charter and words of the Grant will possibly bear it. The King has power to do it to the Mayor and Council. He argues not the convenience or inconvenience of it, but must take it as it is. Before the case of *Duncannon* in Ireland, Lord *Hobart* was of opinion, that where the Grant was "*et burgenses*," it was restrained—A Charter is a flower of the Crown, and the King's undoubted right, and if restrained to the Mayor and Council, time out of mind, and by prescription, it supposes a Grant of such a power. The next objection is, "Granting this Charter during Session of Parliament." As for the inconvenience of that, he submits it, the House increased
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in number by new Boroughs, and revival of old— You have a great trust, and how many may be brought in by new Letters Patent? Law of Parliament is *Paucis nota, multis ignota, ab omnibus quærenda*. 'Tis Law by itself. If this of granting Charters has been done, who can dispute the King's right in doing it? He moves for a Committee to enquire into the King's right, &c. and the inconvenience of granting these Charters, *sedente Parlamento*.

Sir Thomas Meres.] The Question is, "Whether the King can make a Borough by Patent, to send Members, &c. the Parliament sitting;" and, if he can, "Whether this Patent will be made a good Patent"—They, it seems, have agreed particulars without doors, but here, in our judgment, all *England* is concerned. Formerly it was clear, but now it is not clear, as the Serjeant says. He would only go to that point, whether *durante Parlamento*, the King can grant such a Charter? Had it ever been done, you would have seen the use and practice of it. No man can show such a Patent overthrown, because it cannot be showed that there was ever such a Patent granted. He would, rather than debate the Charter, come to quiet the matter, as *Chester* and *Liverpool*, who had that Privilege by Act of Parliament.

Mr Powle.] If he rightly observes the case, it branches itself into many Questions—Whether it be a good Patent? He observes that the Counsel, whom you have heard at the Bar, came hither to pursue the interest of their Clients, not the interest of the Public, and it looks to him like a private bargain—And they omit the great points of the Charter, and insist on that of their Clients only. If the power be indefinite, in the Crown, what great inconveniences might follow! We may put the case, that the King has a mind to alter Religion, without altering the constitution of this House. Whether Boroughs sending fifty Papists, might not be predominant. Unless it be a clear Right, in point of inconvenience it is not to be admitted.

admitted. Out of compassion to himself, he moves that the Long Robe would speak to it—There are several Precedents. 'Tis a rule of Law that the King cannot impose a Charge upon a Borough: Now whether this be in the nature of a Charge, or whether this be in the nature of a liberty or franchise, the King cannot grant it. That it is a Charge, in its own nature, is visible—The Corporation is charged in point of Wages—A great burden to bear themselves, whereas, otherwise, they should bear but a proportion with the County. Another thing, but somewhat obsolete. 11 H. IV. *Fitzberbert* 15 No. 9—*Handford*, Chief-Justice—all Boroughs paid tenths—Those besides fifteenths. Now this is disused. But the people have Privileges; but of its own nature it is a Charge—Corruptions and abuses do not alter the nature of the Law. R. II. chap. 4, latter end—Power by Sheriffs Writs—All Boroughs, bound, of old time, to come to Parliament—Which shows that it is a service. Another Precedent of a pretty rare nature—Parliament Roll. 42 Ed. III. *Membran.* 8. *Torrington* in *Devon*. “That to send Burgeses, &c. *onerari non debeant*.” There is an *Onus*, and a discharge 1 *Char.* I. *Prynne's Register of Writs*, fol. 1181. 1 March 1628. *Weobly* and *Milbourn Port* had discontinued, a long time, sending Burgeses to Parliament. It was *Resolved*, That it was a service, and so not lost by disuse; which a Franchise might—Now, Burgeses in this House—18 K. *James*, the case of *Pomfret*, and 21 of King *James*, the case of *Weobly*—He will grant that many sit here by Charter, but would enquire whether by revive, and not new creation since the 18th of K. *James*. Never any created but this—Determined—And no more Charters than granted—Whether for the interest of the Kingdom to have more granted, leaves that to consideration. 20 H. VI. *Plymouth* sent Burgeses first—And then after that sent none till 27 H. 8. chap. 25. *Calais* was a Borough, and sent anciently to Parliament. The practice has been never to alter the constitution
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of this House, but by Act of Parliament. 7 E. 6, the Charter was granted for *Maidstone*. It was then resolved to be referred to Serjeant *Morgan*, to see whether the King might grant a Charter for Burgeses of Parliament, and in the mean time, the Burgeses were to forbear to sit. In Queen *Eliz.* several Boroughs—But since the 18th of K. *James*, resolution of Parliament put a stop to them. But he thinks an incurable flaw in this Charter, its being without consent and knowledge—The Election is confined to a few of the town, and all to bear the charge of the Burgeses. *Qui sentit commodum, sentire debet et onus*. This so far vitiates the Charter, that you may throw it out without any farther Question.

Mr *Waller*.] The Borough of *Bewdley* was erected in King *James's* time: Mr *Selden* grumbled at it. The Universities, in his time, sent Burgeses, by K. *James's* Grant, who was a *Mæcenas* to all learning. The townsmen had Burgeses before, the scholars afterwards by this Grant. To question this power of the King here, is to question all our sitting here; but he would not have the King put any imposition—A great many more Boroughs were put out when he was here—A great many Borough-towns, formerly of good credit, grew poor, and were dismissed their attendance here. *Cornwall* had more than *Yorkshire*, because of the House of *Lancaster*. 'Tis said, "There is not time to do it, the Parliament sitting." He never heard before that the Parliament sitting could hinder the Prerogative. The King has had this Parliament sixteen years. He knows not how the Prerogative has been suspended sixteen years. A multitude here is our help—Our desire is to proportion things equally—'Tis a great advantage to us that these things are done, when we are sitting, that the thing may be thoroughly enquired into. *Abusus juris non tollit jus*. Patents have been granted for the few Electors, and sometimes for the many, and we have judged it the same way. You have a Bill to regulate Elections, but as for this present Charter,

Charter, 'tis *de jure*, and then speak right—There is an injustice, a canker, will eat out all. Therefore would have the power of granting justified.

Serjeant *Maynard*.] The Question is, Whether the King has power to grant a Patent for Burgesses, &c. If the King at any time may do it, he knows no difference in the time, the Parliament sitting or not sitting—The King has power—Never knew it confuted, but that the King may make Corporations, and grant them Privileges of sending Burgesses, &c. But that is not the point. He finds persons elected, and the incorporated complain of it. He will declare his duty to his King and Country—He will declare how the Law is. The case is stated by *Powle*, Whether this Grant be a franchise or a burden. It is the King's power to incorporate, and in the King's power likewise to limit the Privileges—And all this, under favour, with consent of the place. Anciently, Taxes were by hydes of land, afterwards by subsidies. The Boroughs paid Taxes by tenths, the Counties by fifteenths. The Boroughs a third part more than the Counties—What consequences, if not consent—Whether a burden, or no, they must pay a third more than the County, otherwise ought to pay. If then here be no Petition from the Borough, there is no Question of it, and against 100 years practice—Two inconveniences will follow, if they have a Charter, &c. imposed without consent: *First*, They will be put to greater charges than the Law will allow of; and, *secondly*, They will have no consent to what is done in Parliament. But now, if the Charter be for a Corporation, the King may grant it as large as he pleases, and the King is not bound to little or great numbers; he may grant it to eight, twelve, or twenty, if he pleases—They give no man implicit or explicit consent to it. This Question is not of Prerogative. It is out of the Question, whether the King may do it, or not—*Chester, Calais, and Wales* come not to this purpose—It is no consequence, because they were empowered by Act of Parlia-

Parliament to send Burgesſes, that the King cannot do it without. But this caſe is of a Corporation drawn into another way of Government, without their own conſent. When they accept it, they agree to it, but upon execution of it, they diſlike it; and from thence is the Queſtion, whether it be good, or no. Whether inconvenient or convenient, is not the Queſtion, if the King have right. But we may petition that the number may not be increaſed.

Mr *Sacheverell*.] Whether this be a good Patent, and whether by this Charter the King may do it, is the Queſtion—You cannot reſolve till you know whether Gentlemen concerned in the Country Towns, *Cottingham*, *Bladerton*, and *Wintborp*, are not barely drawn into Wages for Burgeſſes, and but part of the Corporation have the benefit of the Charter, and all are ſubject to the Jurisdiction of the Corporation, and Copyholders ſummoned to the Corporation Court. He thinks it not a good Patent, becauſe it creates new ſervices, which cannot be granted. The Queſtion is, Whether the King can grant ſuch a Charter. As for markets and fairs, and tolls in all Law-Books, *Niſi fit ad aliquod damnum*, is a Clause in the Grant. Therefore he tenders the Petition of the three towns, *Newark* being gone off.

Mr Secretary *Williamſon*.] He will trouble you but with a few words. The King's power of granting Charters, with Clause of ſending Burgeſſes to Parliament, upon the Debate wears off; for it would ſhake many Boroughs in *England*. All Boroughs by preſcription had their firſt commencement from the Crown, by Letters Patent, or Charter. He hears it ſaid, "This is not to be granted by Patent, becauſe it is a charge upon the people for Wages." But though there be Wages, yet looking to the diviſion of their Taxes, and the ſervice in Parliament, is for their good, and will bear the name of a Franchiſe. As to the granting this Patent in Parliament-time, 'tis ſaid, there may be ſurprize. If the King have power, why, in
Session

Session of Parliament, must it be suspended? What reasonable Law can be urged, why not in Session of Parliament, as well as in interval of Parliament? The King's Prerogative is the same, and he knows not, he confesses, the reason. The same objection may be made in the House of Lords, as to the calling the Boroughs by Writ. *Bewdley* was created a Borough, and had a Patent for sending Burgesses, the Parliament sitting. There is no Precedent against it in Common or Statute Law, for it is backed by Precedents. The Vills that are incorporated require some consideration, but if you meddle only with the Members that are to sit for the Corporation, their Right cannot be barred. He finds a complaint of this Corporation before these Vills mentioned—In Lord *Dorset's* case, an independent Clause in a Grant may be repealed, and the Patent yet stand good—Of a charitable use—The greater part of the Grantees may void it by Law, and not be bound—But all this while this destroys not the Corporation — Why should the House concern themselves in particular mens complaint? Serjeant *Maynard* agreed it to be the King's Prerogative, and agreed during Parliament; and if the Villages are not bound by what you do, why should they hinder the Election? That being not the Question before you, the Vills may defend their right at Law, and the Parliament-men stand good.

Sir *Thomas Meres*.] The majority of the inhabitants of *Newark* are as much as they can be in a form*, and tell us the inhabitants of the town find themselves grieved, and this Charter gives them not at all the benefit of the King's favour. The Counsel have not mentioned this; it may be not for the particular interest of their Clients, but that is the fair ground of the Petition of the townsmen.

Sir *Francis Winnington*.] He thinks he speaks with great authority, when he cites that of this House.
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The Patent you have voted good—This is not construed (the Writ, &c.) immediate to him directed.

Sir *John Trevor*.] The Patent directs *Burgum nostrum*, Major & Aldermanni, &c. and they might have made a good return of that Writ, and as good as if directed to the Sheriff—But upon legal exposition—Good return *Breve nostrum*—His politic capacity—The Sheriffs mandate is *Breve nostrum*—Either if the Sheriff or Mayor return, in both cases it is good, and when it appears, it is the King's pleasure to chuse and return. The essential part is a Writ to the Sheriff, and a precept thereupon, is the Election, and the Return—A fair Return and Election—He would put the Question upon Mr *Savile's* Return.

Sir *Nicholas Carew*.] He is glad to hear the best strength of this Patent is our Vote, though against several Laws.

The Question being put, That, by virtue of the Charter granted to the town of *Newark*, the town of *Newark* hath a right to send Burgesses to serve in Parliament; it was resolved in the Affirmative, 125 to 73.

The Question being put, That Mr *Savile* and Sir *Paul Neale* are duly returned to serve in this present Parliament for the town of *Newark*; it passed in the Negative, 103 to 102. And a new Writ was ordered to be made out.

[*March 22, 23, and 24, Omitted.*]

Monday, March 26, 1677:

On the Motion for a farther Address to the King to enter into a speedy and strict Alliance with the Confederates.

Sir *William Hickman*.] It is the danger of our very being, if *Flanders* should be lost; which was the first inducement of our Address. We need make no scruple of a War, in that case, if occasion be; and he would have a Committee appointed to draw up a farther Address.

Sir *Robert Thomas*.] The way you are upon is to prevent more men going out of *Ireland*, to the French King's

King's service. And the way you are upon is to prevent a general Peace, and a Committee to draw up an Address to the King to prevent it, is the way to do it, and moves it.

Sir John Trevor.] You have already address'd the King to strengthen his Alliances, and the King answers, "He will take all possible care for the preservation of *Flanders*, that can consist with the Peace and Safety of the Nation." We put out "the *Netherlands*," and put in "*Flanders*" to our Address to the King. He thinks the preservation of "the *Netherlands*" is of as great consequence as "*Flanders*." 'Tis the King's Prerogative to make Peace or War. 'Tis he that makes it, and he that breaks it. *The Disciples came to our Saviour, in the ship, and said, "Lord save us, or we perish;"* and we can say no more to the King. The King of *France* is as great a Monarch as any in the world, and he entered into strict Alliance with the *Dutch*, and made it good, and we repaid it with our Alliance with him against them.—For Preservation of ourselves, would move "to preserve the *Netherlands*," and would have a Committee to draw up an Address, to give the King assurance of farther Aids and Supplies (in case a War should be the consequence) for the Preservation of *Flanders*.

Sir Thomas Clarges.] It seems to him, as if we were about to save the *Netherlands* by nothing but talking. *Flanders* was in danger before the Triple Alliance was made, and that caused the King of *France* to go back with his Army. But now our fears are of such insinuation from those near the King, that by their insinuations the King's good Intentions are intercepted. In *Scotland*, men were levied by the King's Messengers, and put into the King's Prisons. The King's name was abused in it. All the public Ministers of foreign Princes avow that there is nothing between *France* and *Holland* for a separate Peace, but the giving back *Maastricht*, and a Treaty of Commerce, and how near that may be, both being tired out by so long a War,

you may imagine the consequence. And if the *Dutch* have strict Alliances with *France*, they will be masters at Sea totally. *Flanders* is assaulted by the King of *France*, because he succeeded not in *Germany*. *St Omers* and *Cambray* are taken, and when there is such a terror amongst men, no man can tell the consequence. 17,000 men went to relieve *Valenciennes*, and yet it was over-run *. He seconds the Motion for a Committee.

Sir *John Reresby*.] He would not trouble the King with a second Address; but moves that we may vote to stand by the King and assist him in such a War as may happen by the Address you have made him, and that the Privy Counsellors of the House may acquaint the King with it.

Col. *Birch*.] He is almost afraid to speak in this matter. He looks on it as almost your all. Whatever the King's thoughts were on the first Address we made, he sees not how his thoughts can alter on a second. It is equal to him whether "*Flanders*," or "*the Netherlands*," be in the Address. The Mischief is, if *France* should make a Peace, 'twill ruin our Nation, and if so, whether is it time now to prevent it? We made an Address to the King, some few days since, but the noise of Axes and Hammers in building Ships, giving and no more, men running out of *Ireland* and *Scotland*—That is the case. Till the King and People understand one another, all we do is to no purpose.—And there is nothing so like to unite us, as this of securing the *Netherlands*. But he would not pay for any thing, nor offer for it, till it were done—But

* The King of *France* was then making one of his early Campaigns in *Flanders*, and had taken *Valenciennes* by storm about ten days before this Debate, where he in person entered the breach to put a stop to the fury of the Soldiers, and by this exploit gave Sir *William Temple* occasion to say "That he had surmounted the very force of the seasons."

Afterwards "dividing his Army in two, he with the one besieged

Cambray, while the other, commanded by his brother, besieged *St Omers*. The Prince of *Orange* looking on *St Omers* as more important than *Cambray*, went thither, and ventured a battle too rashly [at *Mont-cassel*.] On that defeat *St Omers* did immediately capitulate, as *Cambray* did some days after. These things happening during this Session of Parliament, made great impression on all people's minds." *Burnet*.

would

would give any assurance to attain our end—He would see this Alliance made; it cannot be hid in a corner—And then, upon signification thereof to the Parliament, we may address to assist and aid the King in it to the utmost—The Question is, whether this was sufficiently couched in the former Address. In that Answer you were told “That the King would do for the preservation of *Flanders* what should consist with the Peace of the Kingdom.” The word is good; and if we say so, we may have an Answer with effect—We are by this second Address still doubting that we are not at quiet; and this is plain dealing. Perhaps we have provoked the Allies by suffering men to go over to the *French*, and who can we expect help from, if the *French* make Peace, and fall upon us? Now is the time, and never but now, to stir in this matter, and he would have a Committee to draw up an Address to the King, &c.

Sir John Ernly.] He concurs with all that think *Flanders* too considerable to be in the *French* hands. You are told, “that timing an action is the life of it, and now is the consideration of it, &c.” We have an Alliance defensive with the *Dutch*, but if we enter into stricter Alliances with them, he would know what Gentlemen would have unless a Declaration of War with *France*; and that is positive—He will let you see the condition you are in for War. You must double the expence of the Navy—The King allows the Navy 400,000*l.* a year, and that cannot do it; keeping Ships wind and weather tight is the most that can be done with that sum. If we have time and money, the Ships are in good condition. The Question is, whether you will give *France* 300,000*l.* to go to War with him, for your *Straits* trade will amount to as much. He has 40 Ships of War in the *Mediterranean*, and if we enter into a present Alliance with the *Dutch*, and an immediate War ensue thereupon, pray God the *Dutch* give us not the slip, and leave us—And when you are in an actual

War, and they slip the Collar, and get the Trade from you, he would have you consider of it. As for seeing your Alliances first, (as has been said) before we pay or offer any thing to support them, that very day you enter into a War, a Vote of this House will not set out a Fleet. When you are better informed, you will do as wise men. But till then, would not be too forward or hasty to go into this matter.

Sir *Thomas Littleton*.] Here have been several Motions made. The first was for "a second Address to be made to the King," and then for "farther encouragement, by assisting him in case a War should be the consequence of our Address—" To that he will apply himself. We sent our last Address up to the Lords for their concurrence, and they raised a query, and had reason to do so. Those Addresses to King *James* concerning the *Palatinate* were much of the same nature. But this was so short a one for so great a matter, that it put the Lords to a stand. The King answers, "He will take such care as will consist with the Peace of the Kingdom," That is, by way of Peace he will do what he can, but not by War. But if we make this Address more ample, as 'tis now proposed, the King has the whole matter before him, and may give you occasion to declare yourselves accordingly. If this be not so home as formerly we have done, we put the King on many difficulties—Because he has not assurance of Money, he cannot treat like other Princes; but with the assurance of this House, that difficulty is taken away, and he is as good as another Prince. In case there be a general Peace, how miserable should we be! But what Fleet have the *Dutch*? The *French* are not omnipotent. They have their hands full by Land and Sea. Has the *French* King Money to do all things in the World? Have the *Dutch* a Fleet in the *Mediterranean*? The King of *France* can do no more than he can, though he can do a great deal more than we could wish. In the *Straits* the *Dutch* are forced to have convoys. But the *French* Ships cannot go a priva-

privateering. They are determined to carry Ships into *Sicily*, and are guards, and cannot run out at Merchant-men privateering. We then are not in such imminent danger, as is apprehended. We are afraid of the danger that if *Holland* should close with *France*—But there is nothing, in his apprehension, but a tergiversation of this Parliament that will do it. He fears it not this summer, but before next winter, we may find it to our cost—He is apprehensive of his extraordinary zeal against *France*; and would not be cool now—Here is no intention to entrap Gentlemen into Money by this Address, but this will give reputation; a jewel that cannot be bought too dear. He would do as others have done—No less occasion is offered us, and hopes we shall do it on this great occasion. He hears that great men, in the Lords House, are for it, and he likes them the better for it—We may give them now this handle, and leave it with them, and he will not be short in his Assistance, if the King will please to do it, &c.

Mr Secretary *Williamson*.] He agrees entirely in the end of the Address you propose, to save *Flanders* from falling into the hands of the *French*, as a thing necessary to the safety of *England*. He will tie himself only to the necessity of reinforcing this by way of Address to the King—He understands your meaning fully. By the preservation of “the *Spanish Netherlands*” and “*Flanders*,” the King means the same thing, and the King answers your desire of Alliances “as much as possibly may consist with the Peace of the Kingdom.” Some think that the word “Peace” needs an explanation. He thinks it not at all necessary. The King thinks you will submit to all hazards and costs that you shall put him to by this Address, and that he may enter into such an Alliance as may not break the Peace of the Nation. It cannot be the meaning of any Gentleman for the King to break into a War tomorrow. Not that ’tis an unadvisable counsel, or impossible to be put into execution. For the *French*, in the

first place, will then be Masters of our Plantations, having Ships there, and we none. That Alliance you advise, cannot be thought out of the King's care, but your applying so earnestly about it may keep him from better conditions in the making it. How many several parts, arms, legs, and fingers, have the Alliances! And will you suffer yourselves to be Guarantees for all these Alliances now entered into, and you no way concerned? Will men, to prevent a future evil, put themselves out of a present good? You mean not, he is sure, such an Alliance as all the help to support it must come from you, and nothing from them. Would you come in *Pro quota et pro rata* of support with the interest and alliances of persons of cross byasses in interest? But suppose you lay aside interest, will you depend upon their *quota's*? Your *Lucrum cessans*? No Nation can enter into this War now, that will be three years old. If you will not enter into their *quota*, then you enter upon your own power barely. What then is your strength to be alone? Thirty Ships more. Then what is meant by "stricter Alliances," that you would enter into, he knows not. He thinks the King's Answer to your Address as full as may be; and should you go again to him, he could give you no farther Answer.

Mr Powle.] Is of opinion that a farther Address should be made to the King for securing *Flanders* from the *French* conquest, &c." He conceives that the King's Answer is not so full as you can wish. He will not except at the distinction between "the *Spanish Netherlands*" and "*Flanders*," it being the common way of speech for either—Our meaning, by our Address, was the reduction of the *French* power to an equality with their neighbours, and to that you have no Answer. He thought it was the opinion of the House, that if it could not be done by Peace, or Treaty, then by a War. He knows not but this deficiency of the King's Answer may be from a desire of farther assurances from us to stand by him, in
what

what we desire. If these three towns * be got from the *Spaniards*, *Flanders* cannot subsist without your arms, or some body's else. But it sticks with him that the King does not understand the desires of the Nation, and that we have contributed to the *French* greatness more than any other Nation; as by selling him *Dunkirk*, to let the *French* into our bowels, and our War with *Holland* gave him occasion to enter into the bowels of the *Dutch*. It has been said, "that *France* never broke that League," but he is sure we helped him to over-run the provinces—We have sent *France* supply of *Scotch*, *Irish*, and *English* Regiments, and when the officers come back to recruit, they are very well received here, and 'tis evident that this Alliance with *France* is much befriended by some near the King. 'Tis answered, "by this we enjoy Peace, and have the benefit of Trade, and the conveniences of that Kingdom." He likes not a state of neutrality which has always been fatal, and made such at last a prey to the Conqueror. *France* is too great to be defended from that power. 'Tis said "the Navy is not in a present state for War." If so, he is sorry for it. It was an unfortunate accident, our Prorogation for fifteen months, and in that time the Navy was put into no condition to enter into a War with *France*, if occasion was. He moves that we may therefore let the King know our desires, "that he would turn his thoughts that way, and that Counsels may be changed, and that Money would be given, if such Counsellors may not have the management of it." We have done it, and there is no harm to express it now plainly to the King.

Mr *Vaughan*.] Your Address is answered by the King, but whether your ends are answered, or not, it being too short, the King is no way obliged to surmise what your meaning is by it. He is sorry to hear to-day what lately was represented to us to the contrary, *viz.* "That we have not an ordinary guard of Ships abroad." If opposition be the case, you must assist

* *Valenciennes*, *St. Omers*, and *Cambray*. See the preceeding Note.

the Alliances with pay for it, and it must be done by other men. All persons abroad do not understand the obligation between the King of *England* and his Subjects. Therefore he is for keeping the words of "stricter Alliances" in the Address.

Sir *Henry Capel.*] What have we made the first Address for? Supposes, to incline the Confederates to continue the War, and maintain it. When we have great Ships, and Stores, then is a time for us to talk of War. And our policy is to gain time, under the shelter of War, to build our Ships—And under the shelter of a War with *Holland*, *France* grew great upon us. It is said, "That in the Address there are words that import War." He agrees to it, and you must stand by it—Consider, have you strengthened the King for it, in your Address? He believes the King's Answer comes not up to our Address.—And if ever we spoke the sense of the Nation, 'tis in this matter, and those that are not come up to that opinion, he hopes, in time will. The sense of the Nation is of weight. Was there not a time when the Nation was governed by an Army? But when once the Nation was enlivened with a handful of loyal persons, it was never at ease, till it came hither, and expressed their sense, and brought the King home. An Army is nothing to the sense of the Nation, let who will espouse it. Let the King and People be right in this matter, and if his Ministers will promote it, they deserve a reward for it. Let us see the Treaties, and then this body can never go against their own interest—And moves for a Committee to draw up the Address.

Sir *Henry Ford.*] This may be necessary hereafter; but he knows not the necessity of putting the King upon a farther Answer hastily. He would consider the nature of the thing—'Tis not possible so suddenly—Are all Ambassadors here to give Answer? Are all Plenipotentiaries? He believes that the King is of your mind, but would wait a little—Rather vote "That if not, we will assist him with our utmost,"

Sir

Sir *Thomas Lee*.] He thinks farther assurances no ground—But by this Address of “stricter Alliances,” it may be with *France*, and [we may be] bound up by that—So he protests he cannot tell how to give his Vote.

Mr *Garroway*.] May it not consist with other Leagues we are in for the King to lend Money to the Confederates? To do that with a little sum, which we cannot do with three times so much? If you can, drive things so as to save your own flesh, and make use of theirs—He knows not how this may be done without breach of Treaties. Queen *Elizabeth* did some such thing before she broke first with the *Spaniards*—But he has changed his opinion, and begins to be of the mind of those Gentlemen, to come roundly to the King to show him, if he be not satisfied with our Address, that if War be seriously entered into, he need not doubt but we will stand by him as long as the War lasts. But he is against a Vote of “Lives and Fortunes:” That cost us 2,500,000 *l.* and put us upon all the fatal runs that were in the consequence of it. Whenever that War is entered into, he would engage only from six months to six months. We must be allowed to talk freely of this, and he wishes no Papist may have a hand in it; nor those who have counselled the raising men for the *French* service. If you will put the Question “for any assurance that the House will not forsake the King in it,” he will give his Vote for it.

Sir *John Ernly*.] He sees Gentlemen not now for a new Address, but a declaration of the former.

The Question proposed was, That a farther Address be made to his Majesty, to give him an assurance, that if, in pursuance of the Address presented to his Majesty from both Houses, his Majesty shall find himself necessitated to enter into a War, this House will fully aid his Majesty from time to time, and assist him in that War.

Mr *Sacheverell*.] Is against this Question, from those arguments for it. He looks on this Address as taken
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for granted that we should run the way of our own ruin; therefore he will take the more liberty to speak to it. He takes this Question to be an approbation of the King's last Answer; but what sticks with him is another point. You were told "That the King was satisfied in general, that you would assist him; if War should be the consequence of this Address, he is not in a condition to enter into it—The Alliances would produce War—" He is of opinion that what Alliances you make, or may make, you rush into no War. He can never be satisfied that the Country is satisfied, whilst men are raised whilst you sit here. Common Fame says that Ammunition, and Artillery, and Horse are gone into *France*; the Arms marked with the *Tower* mark;—known here, and ought to be sacred. He thinks you safe, when the sum of Money is in your own hands, and not in those that tell you, you can neither make such Alliances, nor a War, and yet send Ammunition to the *French*.—Declare downright War, and he will go along with them.

Mr Secretary *Williamson*.] He thinks Gentlemen are not resolved that this shall be a War. Not one word is answered—If the King enter into a War, we resolve to assist him. Has it yet been answered the *quota* of our proportion? Will you rely upon the success of what the Confederates do, to what you will do? Is it advisable that *England* should leave the success of their great interest on every little interest of *Germany*, to make it equal to the fate *England* runs in an endless War? And you have all interruption of Commerce, and hazard the Plantations, and they have nothing to recompense you but hopes of their helping you to get *Flanders* from the *French* again—And can you think that they who have truckled with these and have been for them all this time, will stick to you that came to their assistance at the latter end of the day? He speaks now but as a Commoner—The scheme was from another man, not his own—If you enter into a War, would not the next hour be a Peace? Therefore you, in doing
one

one thing, would have that which will cost you nothing—Do another thing.

Sir *Eliab Harvey*.] We are told “that *France* will take our Plantations from us, should we enter into a War;” but will not that fear be always upon us? They do it already. Never was a better time than now to break with *France*; for in the end of summer *France* will make a Peace, and then we shall be much more unfit for War than now—He is for War.

Mr *Powle*.] Moves that a Committee may be appointed to form the Address upon the Debate of the House.

1st Question, Whether an Address shall be made to the King?

2d Question, If, in pursuance of this Address, &c. the King shall be constrained to enter into a War, that we will aid and assist him in the prosecution of that War.

Both passed in the Affirmative, and a Committee was appointed to draw up the Address.

The Speaker.] In this you cannot refer to the former Address, because the Lords joined in it. This relating to Money, the Commons make it only.

Col. *Birch*.] He something doubts the matter now—He would be sure to have it.

Tuesday, March 27.

On Mr *Hatcher*'s Petition, setting forth that he is duly elected for the Borough of *Stamford* in the County of *Lincoln*, Mr *Hatcher* being High-Sheriff of the said County.

Serjeant *Crook*.] A Writ of summons to chuse Members of Parliament is an original thing, and not an *Iôta* in it can be altered, without Act of Parliament. He hears it said, “That the Corporation makes the Return of the Writ.” No; they elect, but the Sheriff makes the Return. And 'tis against the Law of Nature for the same man to be both Agent and Patient. In Lord *Coke*'s case, who was made Sheriff of *Buckingham*, and returned for the County of *Norfolk*, to serve
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in Parliament as Knight of the Shire, it was carried that he might be chosen for *Norfolk*, and the whole Debate then ran that he could not be returned, being Sheriff, in his own County. If they might return themselves, most of the Sheriffs of *England* would fit here. There is reason in it, and 'tis against a rule of Law, and a dangerous precedent, for a Sheriff to return himself against all ancient usage.

Mr *Powle*.] "*Nec tu, nec aliquis, &c.*" the words of the Writ. Now whether it be of the County, or an inferior Borough—The case of Sir *Walter Long*, who was chosen Burgess for *Bath*, and was Sheriff of that County; he was presented in the Star-chamber for being out of the County during his Office, but he was not discharged here. Were eligible in another County—Serjeant *Crook's* Brother served here, in the Long Parliament, for a Borough in *Oxfordshire*, when Sheriff of that County. Though the Sheriff be incapable of serving, it shall not make the minor part of the Corporation capable to elect, though the Sheriff be incapable. He would stay for a report of this from the Committee of Elections. The other is the fitting Member, and the House has no prejudice by it.

Sir *Thomas Lee*.] *Sawyer* has told you the irregularity of this Petition. In his own case he kept the matter depending to keep men in awe—He cannot but take notice that 'tis some great matter sure, that men desire to be chosen Parliament-men for. He takes not this to be the case of Mr *Hatcher* only, but the Petition is lodged, and 'tis asserted that he had the majority of votes for him, and you refuse the Petition without hearing him, and refuse him to make out his capacity of being elected—This is of weight—There is a great difference betwixt a Sheriff's Return of himself for a Borough, where he is no judge of the Poll, as he is in a County. He thinks he is not barred by his own Act; nor the town barred by his Act neither. So it was not a matter eligible whether the Sheriff should sign the Indenture, or no. Mr *Oakley* was

was chosen a Member, when Sheriff of the County wherein the Borough was, [*Bishops-castle*] and sits upon that Return.

Sir *Job Charlton*.] The cases of Lord *Coke*, and Sir *Walter Long*, spoken of, were held good Elections. But it was *Casus primæ impressionis*. *Long* was chosen when great stirrs were in the Nation. In the Star-chamber, it was set forth in the Bill against him, "His going out of the County without the King's Licence:" He answered, "He was not forsworn, because he never took that Oath." So the thing was changed, and he was fined for exercising that Office without taking the Oath. The words of the Writs are "*Ita quod tu, nec aliquis alius Vice-comes regni nostri, sit electus, &c.*" Suppose this Borough of *Stamford* had not petitioned—If you judge him incapable, and yet he have the major Voice, he that had the minor Voices must sit. It appeared against one chosen for a Borough in *Yorkshire*, that he was in Orders, and so was rendered incapable of sitting here. Mr *Wandesford*, who had much the fewer Voices, stood against him, and you judged it for Mr *Wandesford*; the other being incapable, though he had the majority of Voices. The thing is new, and never was before. Mr *Oakley* was not Sheriff, &c. but if it were so, the thing was never litigated, never called in question.

Mr *Oakley*.] He was Sheriff of *Shropshire* in the Convention, and his Return was then. They put out Major *Waring*, and made him Sheriff, who was no delinquent. But he would stand, and did sit here accordingly, without any dispute.

Sir *John Trevor*.] *Sawyer* said, "That the Petition of Mr *Hatcher's* was shuffled into the House by him." Lord *Burleigh* delivered it to him to present, before twenty Gentlemen, and here were forty Members in the House when he delivered it. He said, these Petitions are brought in to keep men in awe for their Votes here. Every man knows how *Sawyer* was in his Vote, during the dependency of that Petition against him.

him. But as soon as the clock struck twelve, and his Election was determined, you know what he did; he changed his opinion.

Mr Solicitor *Winnington*.] He knows neither of the parties concerned in this Petition. He thinks it agreed on all sides, that the Gentleman now pretending, by his Petition, is Sheriff of the County of *Lincoln*, and chosen for a Borough in that County. Now, whether being Sheriff, he can return himself, is the Question. To say a Sheriff of one County cannot serve for another—" *ita quod tu, nec aliquis alius Vice-comes, &c.*" If "*Tu*" be "no Sheriff,"—If but a recital of the Law, then you are at liberty to argue whether the Sheriff of one County may be returned for another. The Writ for Election is directed to the Sheriff of the County. Every Officer must obey the Mandate; if qualified, he must obey the Qualification—If the subsequent Clause were not in the Writ, then it might be probable. Sir *Nicholas Bacon* suffered a common Recovery whilst he was Sheriff: The Writ could not be directed to himself, and the Recovery was void; because the Writ gave him no authority to do it being Demandant—Does that Clause "*Ita quod tu, &c.*" in the Writ, signify nothing? *Long's* and *Coke's* Case was in another County. "*Tu*" must be "The man," "Sheriff." It is in Law the Sheriff's Return. 'Tis his Officers that act for him—That he offers to consideration.

Mr *Hatcher's* Petition was, upon the Question, rejected.

The Bill from the Lords for educating the Children of the Royal Family in the Protestant Religion, &c. (*See p. 284.*) was read the second time.

The House sat some time very silent, whereupon

Mr Secretary *Williamson* said] This Bill is of great weight, by the silence in the House. He remembers, at the first reading, a remark upon one part of it: For the Education of the Children, 'twas thought the time was too narrow, "from seven to fourteen years of age." He thinks it reasonable to enlarge it. Exceptions may be taken at the second reading of a Bill properly,

properly, and this goes not so far as it might for the time, and moves that it may go to a Committee for Amendment, at least for that.

Mr *Powle*.] Would have it committed with the Bill of Popery, and between them hopes you may make a good Bill.

Sir *Thomas Meres*.] He must say now, commit this Bill, or no. He would commit this, and read our other Bill of Popery, and then refer them both to the same Committee. Since then the matter is really before us, and the Question is, if we should have a King of a different Religion from the Nation, what is fit for *England* to be done? And upon the Debate all insisted for a Committee of the whole House, to consider what should be done, should such a thing happen, as a King or Queen of *England* to be of a different Religion.

Sir *Eliab Harvey*.] Would have instruction to the Committee, "that from the time the Bill shall take place, all dignified Clergy should be married, or else be made incapable of their places."

Sir *Nicholas Carew*.] Seconds the Motion, "that Clergymen should be capable of no dignity unless they were married;" and he is sure none of the Church of *Rome* can come into a dignity if they be married.

Mr *Garroway*.] He believes there is no better step to keep Popery in than without it—"No Bishop, Chancellor, nor any to be capable of those preferments, but married men" will be so great a tie upon them, that, in truth, nothing can be greater, and they will not easily alter.

Col. *Birch*.] He is not very desirous of that Clause, but he will take any by the hand that will proffer to save us from what we fear, Popery.

Sir *Winston Churchill*.] The title of the Bill is for securing the Hierarchy, as well as the Protestant Religion. One condition in the Bill makes Bishops forfeit their Bishopricks, if they certify not the Oath into Chancery—Void *ipso facto*—All the Bishopricks may
be

be void, and then he would know who shall make the Bishops in that case?

Mr *Mallet*.] In this Bill there are interlineations, and figures, which is unparliamentary. He is against the commitment of the Bill—It will blow up the Government, it states an *interregnum* and an Oligarchy. 'Tis now a Thesis amongst some Churchmen, that the King is not King but by their magical Unction—He knows not what the Bill is—No *interregnum* can be by Law—It sets up nine Mitres above the Crown—*Monstrum horrendum!*

Sir *Thomas Littleton*.] There was a large Debate at the first reading of the Bill. He will observe, now, but one thing in it. In the primitive times, there was another way of electing Bishops—*viz.* By the Diocese; the Clergy and Laity were joined. But that being found tumultuous, it was laid aside. This Bill looks not that way, nor would he have it. The objection of a Commonwealth comes in at every turn. But there was no objection from the Empire of *Rome* against it, then at the height. The Lord Chancellor, Lord Admiral, and Privy Council were formerly, on emergent occasions, named in Parliament—The Bill observes no way suitable to former practice. The Bishops were formerly named by the Pope. This Bill is utterly dissonant from what has formerly been, in civil, or ecclesiastical practice. As for this short Test in the Bill, he does not approve of it. But would have another, in another Bill, larger, instead of this. Would commit this Bill, but, withall, would read our other Bill of Popery.

Mr *Vaughan*.] Some good end, he believes, transported the Lords beyond all ends, in this Bill, that they intended to arrive at. Observe the injustice of it: All Gentlemen that have right of patronage, are not obliged to take any Test; the King shall not present without a Test; in this case, the subject doing it without Test, is in better case than the King. Bishopricks anciently were given *per traditionem annuli et baculi*. 1 King *John*. 1 *E. VI.* repealed. If the Test
be

be unjust, as to the Subject, much more unjust to the King. It intrenches upon the King's Supremacy—The King is the founder of all *English* Justice, and therefore the Law entrusts him with promotions. This Bill divides betwixt the Bishops Jurisdiction and the Crown. The King is *summum caput Ecclesiæ*; not by 26 *Henry VIII.*, nor 1 *Eliz.* Those are but declaratory laws; the King's right is as ancient as *Edward the Confessor*. The Law calls the Bishops "immediate dispensers of the King's ecclesiastical authority;" and the King cannot part with it, because 'tis the best flower of the Prerogative, and the subjects ought not to stand debtors to any for their justice, but to their lawful Prince. The King by this Bill is made capable of error; and if once an offence be sheltered under error of the King, you may seek impeachments elsewhere than in the House of Commons. He finds not the great rights amongst the Bishops, which the *Romanists* say—If Popery come in, they and their books must burn together—'Tis said, "The King's Children are to be taught the Lord's Prayer, &c. and the rudiments of Religion;" but as Parrots, &c. *Liberavi animam meam*. The Bill is fatal to the Crown, and so little in it to be retained, and so much to be rejected, that he would throw it out.

Sir *Edward Dering*.] The King has parted with many things of his Prerogative, this Parliament, as high as this is in the Bill; as in the case of purging the Universities.

Mr *Williams*.] The things in the Bill are only in prospect, upon demise of the King. That Prince that is popishly inclined will exercise his Prerogative for all this Bill. The inherent right of making Bishops is in the Crown. We know who makes Judges, and, no doubt, but upon any dispute hereafter upon this Bill, the Judges will give it for the King, and consequently there will be no judging against the King.

Mr *Marvell*.] He wonders to see this Bill so ready to be committed, that the consequence may be no

likelihood of the King's consent—But 'tis an ill thing, and let us be rid of it as soon as we can. He could have wished it had perished at the first reading rather than have been revived by a second. He is sorry the matter has occasioned so much mirth. He thinks there was never so solemn and sad an occasion, as this Bill before you; but he is glad the House is returned into that temper, which the gravity of the matter requires. The Bill seems very unseasonable; the beginning is of two things not of mature consideration. First, it supposes "the death" of the King—It might have had a more modest word to have disguised it from the imagination ("Demise.") Secondly, it supposes "that possibly the Crown may devolve on a Popish Government;" which ought not to be supposed easily and readily. God be thanked for the King's age and constitution of body! The King is not in a declining age; and if we intermeddle in things of this consequence, we are not to look into it so early, as if it was the King's last Will and Testament. The Law makes it Treason, "to imagine the death of the King that is—" A word more in it—The true and proper sense is not to imagine the King's death—His age may confirm you in no danger suddenly of the consequences of the Bill, but as for that of "a Popish Successor," he hopes 'tis a matter remote in the event, and would not precipitate that evil, no, not in a supposition. For some reason, without doubt, this matter has been thought of in the House of Lords, and next to the King living, he would cast as little umbrage on the Successor, as might be. There is none yet in sight, but whose minds are in the hands of God, *who turns them like the rivers of water.* Whilst there is time there is life, and whilst life, time for information, and the nearer the prospect is to the Crown, information of Judgment will be much easier. When God *takes him on high, and shows him the glory of the World, and tells him, "All these things will I give thee, if thou wilt fall down and worship me,"* he thinks these will be no temptation—

tation—Those who change for conscience-sake will have so much self-denial, that the Crown will not make them alter the thing—'Tis unseasonable; it may be proper some other time, but not now. This Bill is a great invasion on Prerogative—To whom ever God shall dispose the Kingdom, 'tis entire to the King. He does not love to reflect on the persons of those who represent the Protestant Religion—(the Bishops.) But 'tis said, “ This Invasion is not made by the Prelates; they were but passive in it.” But he will not speak of such reverend persons, with any thing of severe reflection, but will only suppose this power of the Bishops given to any other order of men; to nine Physicians, and they administer the Test to the King—Having altered the property of the persons, to speak with a little more freedom, he knows no body of men, if the Parliament please, but may do it as well as they. The College of Physicians have a Charter from the King, and are his sworn servants; let these come to the King to administer the Oath. 'Tis a pretty experiment. Just a tryal, whether the Loadstone will attract the Iron, or the Iron the Loadstone. Who can think that any body of men, that must depend upon the King, &c? Which way, think you, it draws? We have seen (and he hopes we shall never see it again) in *Henry VIII's*, *Edward VI's*, *Queen Mary's*, and *Queen Elizabeth's* time, all sorts ready to turn, one, one way, another, another. 'Tis appointed by the Bill, “ that the Bishops should wait upon the King at *Whitehall*, &c.” He thinks not but Physicians, may be thought by a Popish King, as proper a cure for his Soul, as Bishops. The Chevalier *de Menervicette*, Physician to the Great *Turk*, was by him made Patriarch of *Antioch*. He thinks this power not fit to be lodged in any sort of persons whatsoever. Whatever Prince God gives us, we must trust him. Let us not, in prevention of future things so remote, take that immoderate care in this Bill. *Sufficient to the day is the evil thereof*. Here is pricking of Bishops, as if pricking Sheriffs. If the King does not, they must.

'Twas complained of the *Stamford* Election, "that the same persons were Agents and Patients"—Here Bishops make Bishops; (as inherent a right to the Crown as any thing possible.) He desires, that, during this King's reign, we may apply ourselves to preserve the people in the Protestant Religion, not only in the profession of it, but that men may live up to it, in morality and virtue of Religion, and then you establish men against the temptation of Popery, and a Prince that may be popishly affected. If we do not practise upon ourselves, all these Oaths and Tests are of no use; they are but Phantoms. The Bill has a very good title, and a good intention, but nothing but the title is urged to be of the least validity. This puts him in mind of a private Bill—You would not countenance the pretence of "no people to make compact for themselves." 'Tis said, "the Bishops promoted not the Bill, but they were under fear, in the Lords House *." Promotions make some men much better, and 'tis power that makes Popery—So great a power assembled upon such a body of men! The Bill he spoke of, pretended, that the Dean and Chapter of *Durham* would have benefit by a ballast shore to be erected at *Yarrow-Sleake*, on *Newcastle* side. Says one, "it will narrow the river." Says another, "it will widen it." 'Twas then said, "that Gentlemen love not to play tricks with Navigation," much less should the Nation play tricks with Religion. But whether this Bill will prevent Popery, or not, this will secure the Promotions of the Bishops; 'twill make them certain. He is not used to speak here, and therefore speaks with abruptness. Closes all with his Motion

* This Gentleman, in his *Growth of Popery*, expresses himself thus: "That the Bishops were either the Contrivers or Promoters of this Bill, is a scandalous falsehood, and devised by the Authors to throw the odium off from themselves upon the

Clergy, and (the Bills that aimed at the Ruin of the Church of *England* having miscarried) to compass the same end by this Defamation. A sufficient warning to the Clergy how to be intrigued with the Statesmen for the future!"

that

that the Bill may have the same fate others have moved for, "not to be committed."

Serjeant *Maynard*.] Nothing is more desirable than the end of this Bill, but to the means to attain that end, he knows not how far he can consent, or whether at all. But he is not for desperate remedies—He would not have any thing propounded prejudicial to the Crown. This Bill cannot pass without the King's consent, and all is a *nihil*, and signifies nothing without it. That propounded in the Bill, is not for this King's life, but temporary; and he hopes that no *Romish* Patron shall put any into a living—He is glad, though 'tis not in the Bill, that it has been proposed. You have done it already in a Law, in recusants convict, and there is no injustice in it. But if any thing in the Bill can attain your end, he would offer at it. To use that argument in general, "that the Bill is against the King's Prerogative," you may shut up your doors and make no more Laws. *Henry III. Edward I.* That of "Estates in tail not forfeitable to the Crown, &c." Does any thing more touch the Prerogative than calling a Parliament, and how often has that been done by Law in Parliament? Wardship was the greatest power of the Prerogative; Heirs to be in the custody of the King, and the King had the marriage of the Heir, and the Widow took an Oath not to marry without the King's consent, or to fine for it. All this was done, and yet you propounded it to the King, and he did it. The King is willing to part with his Prerogative. 36 *Henry VIII.* The case of Escheats (Forfeitures) concerning the Government, and those were altered. Wherein the King's Prerogative is concerned, 'tis his place (as the King's Serjeant) to defend it, but where Religion is concerned, to prevent alteration. 'Tis not within the King's Prerogative, and when the Bill is committed, he shall declare himself more freely. He has some difficulties upon him, but would commit the Bill.

Sir Robert Howard.] The King's Prerogative is an argument too weak against the Bill. He thinks the consequences of the Bill dangerous. The Precedents of Suffragan Bishops, and a Parliament to be held every three years—If the precedents be good, we may apply them—If the King will not do it, the High Constable shall. Is this a legal Precedent? If you pass this Bill, in the administration and intention they both agree, not else. If Precedents be applied, 'tis fair that this Act be brought to it. If this be Law, and the Crown must be obliged by it, 'tis as fit to look to civil as ecclesiastical men—Judges and Bishops shall do so and so, and the King—You may put it otherwise on the subject, and better, that the King do no subject's action. What case are the Bishop's like to be in? He will not suppose the King a Papist, against that Law already made. Surely they must suppose it.

The Bill was committed *, [127 to 88.]

Wednesday, March 28.

In a Grand Committee, on the explanatory Bill to prevent frauds and abuses in importing *Irish* Cattle.

The Speaker.] If once we make it the interest of particular persons, if once we make a Law, 'tis in the nature of public faith—Men are come just now to the benefit of breeding Cattle, in *England*; will you gratify and reward a people that would enervate your Laws? 'Twas not the practice of the *Romans* (See the printed paper of fraudulent seizing *Irish* Cattle when landed in *England*.) It has not long since been delivered for doctrine in this House, (by *Birch*) maliciously enough, "that misery and poverty came in with the orthodox Clergy." This *Irish* Act was passed for national, at the same time that the Act of Conventi-

* "This notorious Bill," as *Marvell* calls it, after being committed, died of neglect, the Committee either disdaining, or not daring publicly to enter upon it. *Ralph*.

cles passed. And no man believes, but that if the Gentleman (*Marvell*) spoke irreverently of "the Physicians*," he would have done the same of "the Bishops"—He said, "That Persons that bear their proportion of the charge of the Nation, should have likewise the benefit by bringing in *Irish* Cattle, as *London*, &c." All persons come and spend their Money here at *London*; and the next step of requital is to reject all improvements that must come from those, that support them. Great plenty is suggested. "No," says one, "Corn produced not the moiety at importation 2s. If not but 18 d. &c. destroy that Trade, and suppress Navigation." The Western Ports have but two famous; *Ilfracomb* and *Minion*—They have converted all to fishery—Make them great in Navigation and Trade, and then where is the difference between *England* and *Ireland*? Cattle out of *Ireland* are sold cheaper than those bred here. Bought in at 40 s. and sold at 3 l. Lean Cattle here 3 l. The cheapest price governs the market, and by this fraudulent seizure the Act is totally eluded. Thus much only in short; no man but would feed, if he can buy in cheaper than he can breed, and the consequence will be, we shall depend upon *Ireland* for Cattle. *Ireland* affords it you so, because you neglect your own breed, and then they impose what price they please; and if *Ireland* be in danger of *France*, we are at that King's courtesy to eat beef.

Col. *Birch*.] *Seymour* has honoured him much in answering his Arguments, as if no other Gentleman's Arguments were worth answering, but his; as the primitive Christians were lapped, by their persecutors, in *Bears and Wolves skins*, to worry them. He knows what public faith-bills are as well as *Seymour*, and these Bills answer public faith-bills, and will be so paid. (*reflecting upon Navy tickets.*)

Mr *Swynfin*.] The Act has not prohibited Wool, but Beasts, out of *Ireland*. They send away their Wool

* (See p. 323.)

abroad, and there the Trade turns from you. For after a great rot in *England*, yet Wool fell in its price.

—Sir *Henry Ford*.] Reason has but a few Profelytes both within doors, and without, and so you might have sooner come to a Question. The interest of *England* is governed by Parliament. 'Tis the populace that makes the value of Land. There is no reason for *Irish* Land being of low value, but the poverty of the people, and not the fifth part of *Ireland* peopled. Little Money went back into *Ireland* from *France* and *Holland*; and there they will go. The Peasants eat no beef in *France*, nor wear any shoe-leather—Beef is at 2 s. the quarter in *Ireland*, and will you take away so beneficial a thing from your fellow-subjects? This Bill has decreased the Trade of black Cattle in *Ireland*, and increased Sheep, and Wool comes in upon you. The thing is indifferent to his County, and he will make no Motion in it.

The Speaker.] *Devonshire*, *Ford's* County, is 30,000*l.* a year worse by *Irish* Cattle than it was, and *Ford* is much mistaken in that County.

Col. *Birch*.] The greatness of the importation of *Irish* Cattle is that which sinks Land—Though *Turkey* be more, yet not half the cloth is exported, that was twenty years ago.

Resolved, That the Laws prohibiting the importation of *Irish* Cattle shall be made perpetual. [Which was agreed too by the House] 145, 128, [and the Bill was ordered to be ingrossed.]

Tuesday, March 29.

Mr *Marvell*, coming up the House to his place, stumbling at Sir *Philip Harcourt's* foot, in recovering himself, seemed to give Sir *Philip* a box on the ear. The Speaker acquainting the House, “that he saw a box on the ear given, and 'twas his duty to inform the House of it,” this Debate ensued*.

Mr *Marvell*.] What passed was through great acquaintance and familiarity betwixt us. He neither gave him an affront, nor intended him any. But the

* There is no mention of this in the Journal.

Speaker

Speaker cast a severe reflection upon him yesterday, when he was out of the House *, and he hopes, that, as the Speaker keeps us in Order, he will keep himself in Order for the future.

Sir *John Ernly*.] What the Speaker said yesterday, was in *Marvell's* vindication. If these two Gentlemen are friends already, he would not make them friends, and would let the matter go no farther.

*****.] The Gentleman that had the blow given him, had once one given him by Lord *Clifford*, and had satisfaction given him by the House. Would have this go for a mistake, but would have it examined; for he never knew before a blow given in the House of Commons.

Sir *Job Charlton*.] Is sorry a thing of this nature has happened, and no more sense of it. You in the Chair, and a stroke struck! *Marvell* deserves for his reflection on you, Mr Speaker, to be called in question. You cannot do right to the House, unless you question it; and moves to have *Marvell* sent to the Tower.

The Speaker.] He saw a blow on one side, and a stroke on the other.

Sir *Philip Harcourt*.] *Marvell* had some kind of a stumble, and mine was only a thrust; and the thing was accidental.

Sir *Henry Goodrick*.] The persons have declared the thing to be accidental, but if done in jest, not fit to be done here. He believes it an accident, and hopes the House thinks so too.

Mr Secretary *Williamson*.] This does appear, that the action for that time was in some heat. He cannot excuse *Marvell* who made a very severe reflection on the Speaker, and since 'tis so enquired, whether you have done your duty, he would have *Marvell* withdraw, that you may consider of it.

Col. *Sandys*.] *Marvell* has given you trouble, and, instead of excusing himself, reflects upon the Speaker: A strange confidence, if not an impudence!

* See p. 327.

The Speaker.] He is sorry to think *Marvell* took it for a reflection from him. *He explained himself to him, and told him what he said.*

Mr *Marvell*.] Has so great a respect to the Privilege, Order, and decency of the House, that he is content to be a sacrifice for it. As to the casualty that happened, he saw a seat empty, and going to sit in it, his friend put him by, in a jocular manner, and what he did was of the same nature. So much familiarity had ever been between them, that there was no heat in the thing. He is sorry he gave an offence to the House. He seldom speaks to the House, and if he commit an error, in the manner of his Speech, being not so well tuned, he hopes it is not an Offence. Whether out, or in, the House, he has a respect to the Speaker. But he has been informed, that the Speaker resumed something he had said, with reflection—He did not think fit to complain of Mr *Seymour* to Mr Speaker—He believes, that is not reflective. He desires to comport himself with all respect to the House. This passage with *Harcourt* was a perfect casualty, and if you think fit, he will withdraw, and sacrifice himself to the censure of the House.

Sir *Henry Capel*.] The blow given *Harcourt* was with his hat; the Speaker cast his eye upon both of them, and both respected him. He would not aggravate the thing. *Marvell* submits, and he would have you leave the thing as it is.

Sir *Robert Holmes*.] He saw the whole action. *Marvell* hung about three or four times with his hat, and then gave *Harcourt* a box on the ear.

Sir *Henry Capel*.] Desires, now that his honour is concerned, that *Holmes* may explain, whether he saw not *Marvell* with his hat only give *Harcourt* the stroke "at that time." Possibly, "at another time" it might be.

The Speaker.] Both *Holmes* and *Capel* are in the right. But *Marvell* struck *Harcourt* so home, that his fist, as well as his hat, hit him.

Sir

Sir Robert Howard.] Hopes the House will not have *Harcourt* say, he received a blow, when he has not. He thinks what has been said by them both sufficient.

Mr Garroway.] Hopes, that, by the Debate, we shall not make the thing greater than it is. Would have them both reprimanded for it.

Mr Secretary *Williamson*.] He submits the honour of the House to the House—Would have them made friends, and give that necessary assurance to the House, and he, for his part, remains satisfied.

Sir Thomas Meres.] By our long sitting together, we lose, by our familiarity and acquaintance, the decencies of the House. He has seen five hundred in the House, and people very orderly; not so much as to read a letter, or set up a foot. One could scarce know any body in the House, but him that spoke. He would have the Speaker declare that Order ought to be kept; but as to that Gentleman (*Marvell*) to rest satisfied.

And so the thing passed over.

Sir John Trevor reports the Address to his Majesty, which is as follows:

“ We your Majesty’s most loyal Subjects, [the Knights, Citizens, and Burgesses, in Parliament assembled,] do, with unspeakable joy and comfort, present our humble thanks to your Majesty, for your Majesty’s gracious acceptance of our late Address, and that your Majesty was pleased, in your princely wisdom, to express your concurrence in opinion with your two Houses, in reference to the preservation of the *Spanish Netherlands*: And we do, with most earnest and repeated desires, implore your Majesty, that you would be pleased to take timely care to prevent those dangers that may arise to these Kingdoms, by the great power of the *French King*, and the progress he daily makes in those *Netherlands*, and other places: And therefore, that your Majesty would not defer the entering into such Alliances as may attain those ends. And in case it shall happen that, in pursuance of such Alliances, your Majesty shall be engaged in a War with the *French King*, we hold ourselves obliged, and do, with all humility and cheerfulness, assure your Majesty, that your most loyal subjects shall always be ready, upon the signification [thereof] in Parliament, fully, [and] from time to time, to assist your Majesty with such Aids and Supplies, as, by the divine assistance, may enable your Majesty to prosecute the same with success.

“ All

"All which we do most humbly offer to your Majesty, as the unanimous sense and desire of the whole Nation."

[Debate.]

Sir *John Ernly*.] You are already in Alliances defensive, and farther Alliances must be War, and so you will expose yourselves to depredations of the *French* at sea, upon your merchant-ships, and give the *French* a million by putting the King upon this Address. He declares, that the King's entering into farther Alliances is a War.

Mr Secretary *Williamson*.] The Question is, whether this addition of "farther Alliances" in this Address be a repetition, or to make the former Address more effectual? The middle period of your Paper is quite other matter, which was laid by, and set aside by the House. "To preserve the *Netherlands* from the growing power of *France*, and to enter into stricter Alliances for that purpose." He begs leave only to observe that exception for a Question, and to leave it out.

Sir *Thomas Meres*.] This Address is not good sense if it has not reference to the former, and the King cannot but think of the former. We are told, "That stricter Alliances import War;" but if any thing saves *Flanders*, it will be "stricter Alliances;" and he doubts not but that the Parliament having resolved it, it will be of weight. He will not say what Alliances the King should enter into, but doubts not but they will be good when made.

Mr *Vaughan*.] Is not our men going into *France* as much a Declaration of War, as the Motion of sending Money into *Germany*? He would agree to the Address.

Mr *Powle*.] He expects no farther Answer from the King. The design of the House is to give the King thanks for what he thinks so. This goes no farther than the other Address, and extends not the thing at all. "Not defer to enter into farther Alliances;" that is, Not delay till opportunity be lost. 'Tis said, "That this will incense the *French* King into a present War with us;" but this only enables the King for a present War,

War, if there shall be occasion. When the World knows that the King and his people are together, he is as formidable as any King ; and he would agree to the Address.

Mr Secretary *Williamson*.] He excepted only against the middle part of the Address, viz. "Not to defer entering into farther Alliances," making it to prejudice the King in the thing. You insist that this is the time. 'Tis to be hoped that you will leave the thing to the King. He cannot agree with that part—That when, upon the whole Debate, Peace or War is before you—He would re-commit the Address, and would have it made suitable to your Vote.

Sir *Robert Howard*.] If you cut off that from the King, you cut off what he has to protect you with. The Address ought not to be so large as it is now before you. He would have all things left out of it that are of present pressure upon the King. You may else put him upon a denial of your Address, or making some ill bargain in his Alliances ; and how the Confederates have dealt with one another, you know. Why should you do more than give the King thanks for his Answer, and tell him that you will assist him ? Whether with discretion, or no, you put the King upon doing it ; and he would have it considered.

Col. *Birch*.] He was not at the drawing up of this Address, and therefore 'tis not a brat of his own, to be fond of it. He takes the Address to be good. The King said, "He agreed with the opinion of the House of Commons," and you thank the King for agreeing with your opinion, and you desire him "not to defer entering into Alliances, &c." It has been said, "This puts a force upon the King, presently to do it." But this shows the opinion of the House, and their zeal in it. "From time to time" we will stand by the King—He never saw, but when things came on unexpectedly, it was the likeliest way to be quiet. What has this great man on the other side of the water done ? The jealousies he has sown between the King and his people have given him that confidence. 'Tis said,
"That

"That ships are not ready, and therefore such a Declaration of the King, as we desire in the Address, is improper." But he believes that the danger was as much for want of ships eighteen months since, as now, when we would have given money for ships, and it was not accepted—Now, or never, is the time to let the King of *France* see, that breaches are made up between the King and his People.

The Address was agreed to by the House, [the Question for its being recommitted being carried in the Negative, 131 to 122.]

March 30, and 31, and April 2, and 3, omitted.

Wednesday, April 4.

A Bill from the Lords was read, entitled, An Act for preserving of the Protestant Religion, and the more effectual conviction and prosecution of Popish Recusants.

Heads of the same:

"For better conviction of Recusants, because the way, as now it is, is difficult, this Bill makes it their interest to convict themselves. They shall register themselves at the Quarter-Sessions, and thereupon shall be Papists convicted. But the penalty shall be one shilling a *Sunday* for absence from Church, to be levied out of their personal or real estates; but thereby they shall be discharged from all other Laws against Popish Recusants. For registering the names, the Clerk of the Peace shall have but one shilling fee. Persons thus convicted shall be incapable of any office of trust, unless hereditary. They shall not present to livings, as Recusants convicted cannot by a former Law, and shall be liable to penalties for so doing. They shall register them from sixteen years of age, and upwards, within six months. Sick persons, within four months. In prison, or beyond the sea, in six months. The Arch-Bishops, Bishops, Lord-Lieutenants, and Deputy-Lieutenants, two Justices of the Peace, and other persons, under the Great Seal, shall have power to tender the Oath in the late Act, and the Test, to any person, if suspected to be a Popish Recusant. Upon refusal, he shall stand convicted, and forfeit according to the former Laws. They shall be registered in the Exchequer. No *Jesuit* shall be registered, nor Priest, nor other person in any *Romish* orders. Such Priests, &c. as shall be condemned for High Treason, by the Statute of Queen *Elizabeth*, shall not be executed, but by Order from the King, under his Sign-Manual; and the King, instead of it, may

may change the punishment into perpetual imprisonment, under his Sign-Manual; and if he escapes, he is to suffer death as a felon. Any person convicted, or registered, as aforesaid, if he shall attempt to pervert others, shall lose the benefit of this Act. None above sixteen years of age, professing the Protestant Religion, and turning to the *Romish*, shall have the benefit of this Act. All trusts made to elude this Act shall be void. The King may recover mortgages of Recusants convicted, &c. The party to any secret trust, to avoid this Act, shall forfeit 500 l. and the King shall be entitled to a year's profit, &c. The custody of children shall not be to the mother, if a Popish Recusant, but to the next of kin, a Protestant, &c. and the children shall be educated in the Protestant Religion, as the Court of Chancery shall direct, or the Justices of Assize, and an action may be had against such persons as take such children—As guardian in socage may have, but if a Popish father shall dispose of his child to a Protestant guardian, it shall be good. Orphans, whose mothers or guardians are Recusants, shall be educated, and the custody of them shall go to the next of kin, who are Protestants. For Sheriff, Constable, &c. or other chargeable offices, if a Papist be nominated to them, and does not conform, another person shall supply that office, and the Recusant shall pay for executing it. The money that shall arise on conviction, &c. shall be to provide for poor Protestants, and decayed rectories. And the Auditors of the Exchequer shall keep a distinct account of this Act, &c. and Commissioners shall have power to purchase impropriations as they think fit, and shall give such augmentations as the Bishop shall think fit—The Commissioners shall make conveyances to the respective incumbents, notwithstanding the Statute of Mortmain. Any Papist convicted may repair to the Court where his suit depends. On registering themselves at Quarter-Sessions, or *Westminster*, they shall be discharged of all penalties. A Peer may do it in the Exchequer, in term-time, and the same as at the Quarter-Sessions. Lastly, such as do register, &c. and have no land, are to pay fifty two shillings *per ann.* out of their personal estates, and if they have land, one shilling a Sunday, &c.*

[Debate.]

Mr *Sacheverell*.] This Bill from the Lords is a Toleration of Popery, and puts but 12 d. a Sunday difference betwixt the best Protestant, and severest Papist.

* This Bill, with a most plausible title, had a most pernicious tendency. It had an easy and undisputed passage through the House of Lords, but from the Commons it met with very different treatment. *Ralph.*

The

The Lords sent us a Bill lately, wherein they thought fit to transfer the King's Supremacy into other hands*; to take it away, unless the King undergo a Test, &c. By this Bill, the Parliament may be chosen Papists, for the Sheriffs and Mayors may be so too—Though Catholics may not, and are under an incapacity, yet another person, their deputy, may, who may set aside all but *Romanists*. It sets aside all the Laws against Popery, but the Act for the Test; and any man may act three months without a Test; and your work may be done in that time—For fifty-two shillings a year, a very good subject; better than we; and exempted by one clause slyly—The Bill intends to put Protestant Recusants into a worse condition than the Popish—By express words in the Bill, he is subject to all the penalties the Popish are. The Laws have declared Priests and *Jesuits* dangerous to the Government, and yet they shall not suffer death, &c. He fears not the danger of this Bill, in this King's time, but, hereafter, one inclinable to Popery will not execute the Priests and *Jesuits*. This Bill is a bare Toleration of Popery, and he would throw it out †.

Mr *Garroway*.] He is glad to see, that the zeal of the House will embrace nothing of this nature—We may, by it, see the influence of the Popish Lords in their House. He rises to second *Sacheverell's* Motion.

Mr *Williams*.] He desires that the Question, upon the Bill, may not be put suddenly; 'tis disorderly—He would see any Gentleman in this House, that will speak for the Bill ‡.

Lord *Obrien*.] He desires that something of the Bill may be retained, which is the Title of the Bill only—

* The Bill for educating the children of the royal family, &c. See above.

† No sooner was it read, than a Member rose up, and, in a short speech, unmasked it so effectually, that a second moved, "that it might not only be thrown out, but with

some particular mark of infamy."

‡ The Question being called for, a third demanded, "That they would stay a while, to see whether there was any man to be found hardy enough to speak one word for it." Which no man presumed to do. *Ralph*.

Something, as a mark, that you throw not out barely
“ a Bill of Popery.”

Sir Thomas Meres.] If you throw out this Bill, then read your own Bill of Popery—Would observe, two years, and above, to pass most things in this Bill. Your Bill is firm, and strong, and good. These in the Lords Bill are slight, and good for nothing—To destroy all your Laws against Popery, in one Bill! Whatever is good in this Bill, is in yours; and this is to choak all you did good in that. Posterity will be fully satisfied of it.

Mr Secretary Coventry.] Some things are tender in your own Bill, and some in this, as *Meres* says: He would not, by too quick a severity, lay aside this Bill. Two Bills of Popery are shot one against another; and neither will pass. To throw this Bill out, and immediately to send up your own to the Lords, is not the way to have it pass; the Popish Lords sitting in that House. He hopes that, in time, so great jealousies may pass over; but it is a great encouragement to the Catholics, for such a body to stand by them, and the King of *France's* provocation; therefore would not throw the Bill out.

Sir Thomas Lee.] He has reason to believe, that our sharp Bill against Popery will be rejected by the Lords, because we have rejected theirs of Toleration. Lord *Clarendon's* [Bill of] banishment passed in two or three days, and yet was laid by, as this is moved to be. He fears that this may have the same fate, and would throw it out.

Sir John Mallet.] He hopes gentlemen will not wonder, if his zeal against this Bill be not equal to others, in throwing it out. This Bill has a disarming the Recusants in it. He likes the Clause of educating their children; but, as for repealing the Statute of Mortmain, he likes not that. Would have a second reading of it, but no certain day appointed.

Sir Harbottle Grimstone.] On the Bill from the Lords for establishing of Protestant Ministers in *England*,

lately sent us down, when he differed from the Lords judgment, he suspected his own. He believes gentlemen design mending this Bill, to attain the end; but when it comes back, it will prove an unfavoury thing, stuck with a primrose. He would lay it aside. We are told of "the danger that we may pass it in a thin House, as we did the Sale of the Fee-farm Rents." It is not possible to be imagined, that a Bill of this nature could come from the Lords, to repeal all the Laws against Popery. If our Laws were executed, there would not have been this growth of Popery; and he fears the danger will be greater. As for "breeding the children of Papists," we have Laws in force for that; they ought not to have the education of them; that is already provided for. He wishes a Law would be sent us from the Lords, that the good Laws we have already may be put in execution. Is this the way to prevent Popery? We may as soon make a good fan out of a Pig's tail, as a good Bill out of this.

Sir John Hanmer.] Our *David* against this *Goliath*; our Bill against the Lords Bill. Ours will go up to the Lords triumphant in throwing out this, and warm your party in the Lords House.

Sir William Coventry.] He will only say this one little thing, that the readiness of the House of Commons to throw a Bill out, without Debate, is not usual—This Bill being, seemingly, only to feel our pulse for a Toleration. He is not afraid of the success of our Bill with the Lords. When the Nation sees the zeal of this House against Popery, it will put courage into Magistrates, to put the Laws in execution. Would not give it the countenance of a Debate, but throw it out.

Mr Sacheverell.] Would have something on our books, not only of the Title of the Bill, but something that it meant a Toleration of Popery.

Sir William Coventry.] The Bill has so good a Title, that it would be a reflection upon us to cast it out, upon our books: But he would cause some entry to be made,

made, "That finding, upon reading the Bill, that it repealed many Laws against Popery, we have thrown it out."

The Speaker.] Proposes this to be upon your books, viz. "That a Bill coming from the Lords, so entitled, was rejected at the first reading." That is the ordinary way of entry. But if you please to let it be thus, viz. "The House, upon reading and opening the Bill, sent from the Lords, entitled, &c. finding it much otherwise, have rejected it."

Mr Waller.] If we enter it so, this will teach the Lords to make Notes upon our Bills. If we do this, it will remain upon record. Would have you content yourselves with a *Nemine contradicente* in throwing out the Bill, and have it so entered.

Sir John Trevor.] When we send such a Bill up to the Lords, he would have the Lords do so by us.

Resolved, That the Entry be made as the Speaker proposed, viz. Upon reading the said Bill, and opening the substance thereof to the House, it appeared to be much different from the Title; and thereupon the House, *Nem. con.* rejected the same*.

The House then read, the third time, their own Bill for suppressing the growth of Popery, the heads whereof are as follows:

"He shall be esteemed a Priest, or Jesuit, that is a native of this realm, and hath taken Orders from the Church of Rome. Here, or there, saying of Mass, he shall be esteemed a Jesuit, or Seminary Priest, &c.—The Treasurer, after such conviction, shall, in each county, receive of them (Papists) the penalty of former Laws—To the end they shall not conceal themselves, presentment shall be made by the Constables, &c. of persons suspected, in order to their prosecution—The Declaration shall be recorded. All penalties arising shall be vested in Commissioners, in the country, for purchasing impropriations, and for augmentation of poor vicarages. The Commissioners and Treasurer shall nominate four persons, to be presented to the Grand Jury, who shall give good security for the money

* It was rejected, with this censure added in the Journal; "Because the body of the Bill was contrary to the Title." A method of proceeding so totally different from the stated rules of intercourse between the two Houses, that nothing but the crimes of the Bill could have rendered it excusable.

arising by such penalties and forfeitures—They shall proceed by instructions, and be discharged by the said Commissioners. A copy of the account shall be given to the Grand Jury, and be made record; and if they do not their duty, they shall be proceeded against by the Commissioners. If they do their duty, they shall have so much *per ann.* They shall have a Clerk, or Clerks. The Commissioners shall be a Body-politic. The Justices of the Peace shall fine, for remissness, the Constables and Church-wardens. No Papist convict but shall have the benefit of first reconciling himself. All Conveyances, made by Papists, shall be published in six months, or shall be void. And such Covenants, with other persons, shall be esteemed maintenance; and Champettry Papists shall take the Oaths of Allegiance and Supremacy at eighteen years of age. If they do not, the next of kin shall enter upon their estates, allowing them a competent maintenance. All discoverers of fraudulent Conveyances shall have a third part."

[The Bill was sent up to the Lords for their Concurrence.]

Thursday, April 5.

The Commons appointed this day for completing the Money Bill; but something of the *Irish* Cattle falling in the way, by a Motion from Col. *Birch*, for a limited Importation, taking the advantage of the thinness of the House, they fell upon that so eagerly, that there was no room for the other. Upon which the House divided, first, upon the Question, Whether the present Act prohibiting the importation of *Irish* Cattle, should be made perpetual, or no; which was carried in the Negative, 155 to 144. Then, after some hours, about five o'clock, a second Question was put, Whether the present two Laws [prohibiting the importing foreign Cattle] should be repealed, or no; which was carried in the Affirmative, 132 to 90.

The House sat till nine at night, and were divided six or seven times*. Twice about the Questions; another time, about continuing or adjourning the Debate; which was carried, for continuing, 131 to 115. Another Division about Candles, carried in the Affirmative, 130 to 109. A fifth, for a limited Importation, allowing them to be brought in only from the 4th of *February* to a certain day in *May*; and that they may be all alive. And a sixth, about what Imposition should be laid upon their coming in: It was carried, That they should be quite free, without any Imposition. [And a Bill was ordered in accordingly.] The Compiler was absent at this Debate.

[*April 6, 7, and 9, omitted.*]

* Seven Divisions are mentioned in the Journal.

Tuesday

Tuesday, April 10.

On reading the Bill for continuing the additional Duty of Excise.

Col. *Birch.*] The last year, we exported into *France* to the value of 140,000 *l.* and we imported from thence 1,300,000 *l.* in linnen, and wines. He would read the nine-penny Bill of the additional Duty of Excise, and keep the great Tax-Bill as a pawn for our other Bills.

Sir *Thomas Littleton.*] The little Bill of Excise is more purely a gift, than the Tax-Bill, that being for the defence of the Nation; and desires gentlemen would spare what they have to say, till the reading of that Bill; and would have the Tax-Bill read now.

[The Bill was read the second time, and ordered to be committed.]

A Clause was proposed to be added, for the Exportation of Corn.

Col. *Birch.*] For every four shillings Export of Corn, the Nation has thirty-five shillings advantage, besides the navigation—As you under-balance abroad, you over-balance at home—The carriers come to *London* with money, and none goes back. This benefit of exporting Corn, is such a distribution of the money, (though it be said that the midland has not the benefit of it) that it has influence all over *England*—Would have this Clause, that the Nation be not utterly ruined. Either this that we have for Corn must come all in in bullion, or in commodities that pay the King a considerable Custom. This Corn Clause is as natural in the Bill as any thing. You were moved for Exportation of Beer—The last year, 700 ton was exported; and it may be as good for the nation as the Corn Clause, if it were encouraged. He knows there are now contracts for Corn, if the Clause for Importation, &c. be continued, of 1000 and 3000 quarters. If not, there will be so much the less. It is natural to tack such a Clause to a Tax-Bill, to enable us the better to pay it—

Gentlemen would have it exported, when it brings Corn to a true balance—When four shillings and four pence the Bushel, then not to be exported—'Tis worse for the poor, when Corn is twenty pence the bushel, than when it is ten groats. It has been said, "that when we are told what this Clause has cost the King, he would have satisfaction." Brandy is grown so customary, that a fellow will rather go without bread. Would have ten-pence, instead of eight-pence, upon Brandy, and that will be a compensation.

Sir George Downing.] Wheat at 3*s.* 6*d.* from the place from whence it has grown; Barley 15 and 16 *d.*—The Imposition twenty in the hundred—There is not a week's consumption of Corn gone into *Holland*. If Tolls be taken off from the rivers *Rhine*, and *Maese*, they need fetch no Corn out of *England*; they would take it all from the Princes of *Germany*. The War *Holland* has had with *France*, and the *Swede*, &c. has necessitated them to take Corn from *England*. In time of Peace they will take none.

Col. Birch.] He agrees that *Downing* can speak much to this, or any thing else. He will suppose Foreigners, *French*, *Dutch*, &c. We do not give them the Corn: Be they who they will, they must pay for the Corn here. The Nation has got 600,000*l.* by it, besides the navigation. *Downing* said, "in a dear year we shall pay for it." But buying and stocking up poor mens Corn, is not popular, but will remedy scarcity at any time. Storing of Corn might do good, but does not remedy for the present. If once there be such an Imposition, that Corn cannot be carried cheaper than *Dantzick*, the Clause is at an end.

The Clause was rejected, [116 to 87, and the Bill, with Amendments, was afterwards reported, and ordered to be ingrossed.]

Mr *Powle* reported, from the Committee, the Address concerning the Duke of *Norfolk**, which was read, and agreed to by the House, and is as follows:

"We, your Majesty's most loyal subjects, the Knights, Citizens, and Burgesses, in this present Parliament assembled

* See p. 99, 217, 253.

having,

aving, at the Petition of divers Commoners, greatly concerned in the preservation of the life and estate of the Duke of *Norfolk*, entered into consideration of the present condition of the said Duke; and, upon solemn hearing of Counsel on both sides, and examination of several Witnesses before the House, having found, that the said Duke is a Lunatic, and hath been so for many years past; and during all that time to have been kept in parts beyond the sea, at *Padua*, under the dominion of the State of *Venice*; notwithstanding his condition is such, as we conceive, that he may safely and conveniently, and to the great benefit of his person (considering his distemper) be removed thence into *England*; do most humbly beseech your Majesty, that you would graciously be pleased to take some effectual course, that the said Duke may be speedily brought over into this Kingdom; that thereby he may be more immediately under your Majesty's care: Which will be not only to the great comfort and relief of the said Petitioners, but the general satisfaction of your Majesty's subjects; who think themselves, and all others in whom they are concerned, most safe and secure under your Majesty's Royal Protection."]

Wednesday, April 11.

Mr Secretary *Williamson* delivered to the House the following Message from his Majesty:

"CHARLES R.

"His Majesty, having considered your last Address, and finding some late Alteration in the Affairs abroad, thinks it necessary to put you in mind, that the only way to prevent the danger which may arise to these Kingdoms, must be, by putting his Majesty timely in condition to make such fitting Preparations, as may enable him to do what may be most for the security of them. And if, for this reason, you shall desire to sit any longer time, the King is content you adjourn now, before *Easter*, and meet again suddenly after, to ripen this matter, and to perfect some of the most necessary Bills now depending."

Mr Secretary *Williamson*.] He said, "Adjourn;" but the King means, by short Adjournments, to *October*, to have the Parliament within call, upon emergencies.

Lord *O'Brien*.] He is glad our Address has had so good effect. We are told of "a sudden Adjourn-

ment;" and he desires some convenient time after *Easter*, to finish Bills depending.

Lord *Cavendish*.] The King, in his Message, does signify "an Alteration in Affairs;" but not what, nor what influence it has had, or change upon his Council. When he does, we shall do what the King can desire of us, upon this occasion. Till then, we are not ripe for the matter—And he would hear the Report from the Lords Conference.

Mr *Stockdale*.] "To sit after *Easter* to ripen things"—That is, in plain *English*, to grant Money. The Secretary delivered the King's meaning, "That we should not sit, but adjourn from time to time till *October*:" And he would have the Secretary's Message entered upon the Books.

Mr *Stanhope*.] It is not possible that any reasonable time can dispatch the Bills depending before us; and the King may suffer, by the Commissioners not putting the Act for the Tax in execution, by their stay here, and five hundred of us being reduced to a hundred and forty. 'Tis not parliamentary, nor safe, to sit with so few; and he would move the King for a Recess for some longer time.

Mr Secretary *Williamson*.] He knows not whether he did express himself clear enough. He said, "The King intended a Recess by Adjournment;" and though the King means not so as to sit till *October*, yet, by short Adjournments, to meet as occasion should require.

Mr *Powle*.] He cannot concur with the Motion, to meet again after *Easter*. The Session already has been a great labour to us, and our occasions require our presence; and he desires to have no other meeting, for few will attend it, being gone into the country. On the other side, this Message from the King respects our Address, concerning the *French* King's Greatness. If the King has entered into Alliances, and if he declared them, he would assist the King to support them. As for the other Bills, they may keep till *October*, by
Ad-

Adjournment. He would not have the House make an Address to the King, as if we affect sitting. But he believes, if there be occasion for us to meet, men will be ready to come up, upon reasonable Summons.

Sir *Thomas Lee*.] What with the Writing, and the verbal Message delivered by Secretary *Williamson*, it puts him to a stand. If there be a necessity for taking Arms immediately, then there may be a Proclamation to call up your Members. He would have the Message farther explained.

Col. *Birch*.] He cannot make the Messages agree with one another. He remembers our Address; and, to be clear, would have this Message, by word of mouth by the Secretary, entered, with that on Paper, into our Books, as an Explanation of it. Adjournment must be with a House; and the Message says, we are to do no Business. If it be cleared, that no Business is to be done, then we may sit more quietly at home.

Sir *John Ernly*.] There was not an apprehension of the loss of *Flanders*, till this repulse of the Prince of *Orange* *. Reparation now will not be seasonably asked. The King has neither Stores, nor Money, nor Ships. Twenty or thirty Privateers may easily burn all our Ships, and master the Channel. That you will make such reasonable Preparations, as may help your Friends, or an Adjournment—Both are left to you by the King.

Mr Secretary *Coventry*.] He has not had the honour to see the King these three days, by reason of indisposition, and so is not acquainted particularly with the Message. But it does not speak to press you to any thing; but it lays before you his condition, and that he will take his measures according to the proportion that you will help him. Your Address is, "That you will stand by him in such Alliances as he shall make, &c." But what if the King make Alliances with one hand, and offend with the other, and be not provided with defence!—A man would have his servant go a journey, but will not have him engage in it, till he be provided with boots and horses, &c. Make what use of it you please.

* At the Battle of *Montcaffel*.

Sir *Edmund Jennings.*] We have had many Bills before, but have been so unfortunate as not to come at them—He would have it declared the sense of the House—And request from the King an Adjournment, for some short time, to perfect the Bills depending; that the world may not say, we have passed the Money-Bills, and no more. He would have something entered on the Journal, that there may be nothing reflecting upon us, as passing Money Bills, and no more.

Mr *Hopkins.*] Are we assured that that Servant whom *Coventry* spoke of would go that journey, when he has boots and horse provided him?

Mr Secretary *Coventry.*] Would it be wisdom in the King to tell you what journey he would go, or that he would go a journey, without being provided for it?

Mr *Boscawen.*] Would not have us address the King to meet soon again, upon account of the Bills—It seems, it is not a fit time, or place, to tell you if any thing be done, as to your Address, here. If the King intends to give an Answer to the Address, then we may meet, but not as to the Bills; and he would address the King accordingly.

Sir *Philip Warwick.*] 'Tis the King's great wisdom, that he gives you no more light, in his Answer to your Address. It looks like a Night-piece, under that shade which is fitting for it. If we will give no Supplies, till the King make such Engagements, &c. we put him upon hardships; and if we vote farther Engagements to supply him, he knows not how the Country will take it. Whenever our Servant is booted, he will go on that errand, &c. He would have us return Answer to the King, "That, whenever he will make such Engagements, according to our Address we will supply him."

Sir *Henry Capel.*] When the King sends us word, "that there is an Alteration of Affairs," he would take some notice of it in our Books, with some Resolution upon it. He would have this Address, pursuant to the former Address—Would not vary from that method,

thod, and would pass a Vote, "That, because the King is convinced, by the defeat of the Prince of Orange, that he should make Alliances, &c." And therefore this Vote is pursuant to our former Addresses.

Sir *Henry Ford.*] He knows not what farther security we can give the King, in this case, than we have done. He would address, "That we humbly accept of the King's Intimation of a short Adjournment." For our preservation, if our House was on fire, we would give some, to save all.

Sir *John Hotham.*] He knows it his duty never to suspect the King; but has reason to suspect elsewhere. The Address before was, "That we hold ourselves obliged in prosecuting such Alliances, &c. to assist the King." If gentlemen would speak clear out, neither his estate nor person should be spared, whilst he has a drop of blood, or a penny in his purse, to support them.

Sir *Thomas Lee.*] Some gentlemen press to sit after *Easter*, for perfecting the Bills before us. He would have the King know, "If these Alterations, spoken of in the Message, require our farther attendance, we are ready to sit; if not, to go into the country."

Sir *Robert Howard.*] Should this Message from the King receive no good account from us, our former Addresses would fall the flatter. The House seems to stick upon the Address. On the other side, the King thinks it hard to perform, and make Preparations—Distrust of some Assistance, and no effect come of it. Some are for the King's Declaration of Alliances. It is a thing impracticable to have effect of any Answer from the House, betwixt this and *Easter*. Did you expect, in all these things, to adjourn to *October*, and let things do and act themselves? He moves, "That the King may be returned Thanks for his Message; and to let him know, we desire to adjourn till after *Easter*, to meet to receive a farther account then from the King."

Sir

Sir *Henry Goodrick*.] He moves to return the King Thanks, on two heads: "For putting it into your power to adjourn yourselves, for a short, or long time; and to assure him, that, not only now, but at any time, we will meet, to supply him with our best and utmost endeavours."

Lord *Cavendish*.] He is against meeting after *Easter*, in relation to perfecting the Bills depending. If there be any good Bills, they may as well be in *October*. He questions whether they be good Bills. "Good Bills" and "good Titles" differ much. As the Lords Bill to prevent the Growth of Popery*; and the *Habeas Corpus* Bill, as 'tis come down from the Lords, has a "good Title," but doubts whether 'tis a "good Bill." If it be, it may as well be in *October*, as now—He would "thank the King for expressing his gracious Intimation, &c." and would assist him, &c. "with our Lives and Fortunes;" though it has been an unlucky expression. It was said by Secretary *Coventry*, "You have given great security to the King"—But, whenever the King enters into Alliances, it will be known all over the World, and then here. He distrusts not the King, but his Ministers.

Mr Secretary *Coventry*.] The King doubts not the constancy of this House. The King of *Spain* has good Alliances. The *Hollander* is firm to him, and he has great Engagements. *Valenciennes* and *St Omers* [are] taken, and [were] not provided for, and yet no failing in the Alliances. You'll come too late, "with Lives and Fortunes," if you engage the King in a War, before he be provided for it. Lord *Willoughby*, Governor of *Barbadoes* and the *English* Plantations, sent an Order (but did not prepare Forces) to the *French* Governor in *St Christopher's*, who was in the middle of us there, to be gone in three days. Why should he send such a Message? We lived together in great friendship; but it was so ordered, that they fell upon us, and got the Island. The thing is, let us consider, whether we be

* See p. 339.

safe at home, before we go abroad—That we be provided with Stores and Necessaries.

Sir *William Coventry*.] The matter is, the King seems to think that Affairs are so altered abroad, that it is necessary we should be stricter in the matter we desired of him. He seems to intimate, that he is not in a condition to do what we desire of him, and expects something from us, according to our Promise, in the Addresses, “to aid and assist him.” Now the Question is, How far we should go forwarder? If we were not at the end of a Session, he would never stick at it. But moving for a Tax, now gentlemen are gone down, and [after] an Intimation from the King, “that we should rise suddenly,” there is so much consequence in such a surprize, that he will never move you to it. We hear abroad, with both ears, of the Prince of *Orange*’s ill success; but he hopes your Address has heartened the Confederates; and, the King complying, he would be loth the thing should fall flat in our hands. He would be loth the *French* Counsellors should say to the King, “They that advised you, shrink, and slacken their hands.” He would not therefore strengthen those *French* Counsellors—Would not be thought so pusillanimous a Nation, that, when, three weeks ago, we addressed the King, on this success of the *French* [we should] shrink from it. The more the danger is, ’tis ten times more necessary that you should do something; and ’tis never too late, till all be gone. He is raw and imperfect in what to move; but wishes, from his soul, this Message had been sent three days ago. You have given the King Money for thirty Ships, and that cannot be laid out for that purpose under three years. He hears [it] talked of, “that *October* may be soon enough to meet again.” But the day before to-morrow is not soon enough. You are in danger of being lost before *October*. If it concur with the Rules of the House, he would make no scruple to move, “That the King may have power to make use of some part of that Money, with our promise to reimburse it again, upon

upon this occasion." The King seems to be willing we should sit after *Easter*, that we may be witnesses, in a short time, how far he has gone in our Addresses; and hopes he meant to ripen that matter, that you may be witnesses he has done his utmost. He desires we may adjourn before *Easter*, with this reservation, "That, if the King see cause sooner than *October*, he may call us by Proclamation, at twenty days notice, to give him farther aid." A little of that already given may help him and the Confederates. A little Money may go a great way—But he will not go farther than 200,000 *l.*

Sir *Thomas Lee*.] As for the Motion of "200,000 *l.*" 'tis not possible to be done; for you must have a Prorogation for altering the day in the Tax-Bill; as it may be of dangerous consequence for the Lords to do it. The King may destroy your Adjournment by Proclamation—He is informed there must be a special Act of Parliament for doing it, *viz.* for calling that Parliament in the interval of Adjournment.

Sir *Eliab Harvey*.] Is our Fleet, that we have given Money to set out, and the Excise, a secret to the King of *France*? And is not that making War? Can the Fleet go *incognito*? He would have nothing said of secrecy. If occasion be, we may meet particularly on that account, and none else.

Sir *Thomas Lee*.] 'Tis said, "We should meet after *Easter*, in relation to Public Bills;" but he is against it, unless, withal, the Money-Bills may lie on the Table. He speaks against the Offer of any Public Bills whatever—We are embarrassed in Foreign Business, and all for want of confidence, lest the Money should be for some ill intent, and not have the direct fruit of it. If, on the other hand, we show coldness or tergiversation in the House, 'tis the ruin of us all. He is in suspense what to do, and how. He could have wished the Paper from the King had been sent sooner. He shall, for the present, move, "to consider the thing farther to-morrow morning." The Paper has been considered, and well weighed, by the King's Council; he would

do

do so too here ; and hopes we shall do like *Englishmen*.

The farther Debate was adjourned till to-morrow.

Sir *Henry Capel*.] Is against the Report of the Conference from the Lords, because it may disable us from doing any thing in that Bill of Money.

The Conference was reported, and is as follows :*

"The Lords thought fit to deliver you some Amendments to the Tax-Bill, at a Conference. The Lords chose to do it at a Conference, to avoid mistakes. The Lord Chancellor managed. The Auditor of the Exchequer is, by the Bill, sent up to account to * the House of Commons" only, in Parliament. The Lords would have "the Lords and Commons" joined. The Lords apprehended it necessary, that the Clause, being for Public Use, may have a Public Account, and ought to be, "To the Lords, with the Commons. 21 K. *James*, three Subsidies were granted, for the *Palatinate*, &c. Some Lords, and some Commoners, were Treasurers—Eight Citizens. This is not a Clause for Accomptants, Debtor and Creditor ; but a Misdemeanor, and 'tis necessary the Account should be in Parliament—Money actually brought into the Exchequer. The Lords are part of the Government, and ought to have a share in the whole vigour of the Government, to punish Offenders and Transgressors against this Law. This is but a Declaration of the Law."

Thursday, April 12.

The Compiler went out of town this day, and left the House sitting ; when, after having resumed the adjourned Debate on the King's Message,

Resolved, That a Clause be added to the Bill for continuing the additional Duty of Excise, to enable his Majesty to borrow 200,000*l.* at 7 per cent.

Resolved also, That the Thanks of this House be presented to his Majesty, for laying before them his Majesty's sense of the Posture of Affairs abroad ; and to let his Majesty know, that, in order to his Majesty's Preparations, in pursuance of the Address of this House, for the Safety of the Kingdom, they have

* This Conference was had on Monday called "the Tax Bill." The the Bill for raising the sum of substance of it, as above, is not 584,978*l.* 2*s.* 2*d.* $\frac{1}{2}$, for the speedy mentioned in the Journal. building thirty Ships of War, com.

provided

provided a security of 200,000 *l.* And that whatsoever of that sum shall be expended accordingly, shall be by them reimbursed: And whensoever the Posture of his Majesty's Affairs shall require their Attendance in Parliament, they will be ready to aid and assist him, as the nature of his Majesty's Affairs shall require. And a Committee was appointed to draw up an Address, pursuant to the said Vote.

[The Amendments made by the Lords to the Bill for raising 584,978 *l.* &c. being read, were disagreed to by the House; and Reasons were ordered to be drawn up to be offered at a Conference.

Friday, April 13.

Sir *John Trevor* reported the Address, which was read, and agreed to by the House,] and is as follows:

"May it please your Most Excellent Majesty,

*"We, your Majesty's most dutiful and loyal Subjects, the Commons in this present Parliament assembled, do, with great satisfaction of mind, observe the regard your Majesty is pleased to express to our former Addresses, by intimating to us the late Alteration in Affairs abroad; and do return our most humble Thanks for your Majesty's gracious offer made to us thereupon, in your last Message. And having taken a serious deliberation of the same, and of the Preparations your Majesty hath therein intimated to us, were fitting to be made, in order to these public ends, we have, for the present, provided a security in a Bill for an additional Duty of Excise, upon which your Majesty may raise the sum of 200,000 *l.* And if your Majesty shall think fit to call us together again, for this purpose, in some short time after *Easter*, by any public signification of your Majesty's pleasure commanding our attendance, we shall, at our next meeting, not only be ready to reimburse your Majesty what Sums of Money shall be expended upon such extraordinary Preparations, as shall be made in pursuance of our former Addresses; but shall likewise, with most chearful hearts, proceed both then, and at all other times, to furnish your Majesty with so large proportions of Assurances and Supplies, upon this occasion, as may give your Majesty, and the whole World, an ample Testimony of our Loyalty and Affection to your Majesty's Service; and may enable your Majesty, by the help of Almighty God, to maintain such stricter Alliances, as you shall have entered into, against all Opposition whatsoever."*

The Commons had a Conference with the Lords, and gave their Reasons for not agreeing to the Amendments their Lordships had made to the Money-Bill. They then passed the Bill

for

for continuing the additional Duty of Excise, with a Clause to enable the King to raise 200,000*l.* at 7 *per cent.* and sent them both up, united, to the Lords. Sir *John Trevor*, who carried up the long Bill against Popery to the Lords, did, by Order, remind their Lordships of that Bill; intimating, "That the Commons wondered they had heard nothing of it*." Upon which, (as it was said,) the Earl of *Bridgwater* † suggested an Answer to it, which he conceived might be proper; which was, "That their Lordships had sent a second Bill to the Commons, for securing the Protestant Religion, before they received this from the Commons; and they had had no account yet from the Commons, which they might reasonably expect, before they thought themselves obliged to give them an account of theirs, which they had received since."

After this, the Commons attended the King at *Whitehall* with the Address that was voted on *Thursday* last.

Saturday, April 14.

The last Conference produced a free Conference, this day. Upon this Debate, there happened several reflections on the old differences between the two Houses. The matter was well performed on both sides [in the afternoon.] The Commons, after a long Debate, coming to a Question, Whether they should adhere to their former sense, or agree; it was carried for adhering, 156 to 27.

Monday, April 16.

The Lords agreed to leave out their Amendments, and passed the Money-Bill as it was sent up.

Mr Secretary *Williamson* delivered the following Message from his Majesty.

"CHARLES R.

"His Majesty, having considered the Answer of this House to his last Message, about enabling him to make fitting Preparations for the security of these Kingdoms, finds by it, That they have only enabled him to borrow 200,000*l.* upon a Fund given him for other uses: His Majesty desires, therefore, the House should know, and hopes they will always believe of him, that not only that Fund, but any other

* This Intimation is not mentioned in the Journal.

† Great grandfather to the present Duke.

within his power, shall be engaged to the utmost for preservation of his Kingdoms.

“But as his Majesty’s condition is, (which, he doubts not, but is as well known to this House as to himself) he must tell them plainly, that, without a sum of 600,000 *l.* or credit for such a sum upon new Funds, it will not be possible for him to speak or act those things which should answer the ends of their several Addresses, without exposing the Kingdoms to much greater dangers.

“His Majesty does farther acquaint them, that, having done his part, and laid the true state of things before them, he will not be wanting to use the best means for the safety of his people, which his present condition is capable of.

Given at the Court at *Whitehall*, the 16th day of *April*, 1677.”

An Address, in Answer to this, [was ordered to be prepared, which was reported by Sir *William Coventry*, in the afternoon, when it was agreed to by the House,] and is as follows :

“*May it please your Majesty,*

“Your Majesty’s most loyal and dutiful subjects, the Commons, in this present Parliament assembled, having considered your Majesty’s last Message, and the gracious expressions therein contained, for employing your whole Revenue, at any time, to raise Money for the preservation of your Majesty’s Kingdoms, do find great cause to return our most humble Thanks for the same ; and to desire your Majesty to rest assured, that you shall find as much Duty and Affection in us, as can be expressed by a most loyal People to a most gracious Sovereign. And whereas your Majesty is pleased to signify to us, “That the sum of 200,000 *l.* is not sufficient, without farther Supplies, to enable your Majesty to speak and act those things which are desired by your People,” we humbly take leave to acquaint your Majesty, that, many of our Members being (upon an expectation of Adjournment before *Easter*) gone into their several countries, we cannot think it Parliamentary, in their absence, to take upon us the granting of Money ; but do therefore desire your Majesty to be pleased, that this House may adjourn itself for such short time (before the sum of 200,000 *l.* can be expended) as your Majesty shall think fit ; and, by your Royal Proclamation, command the Attendance of all our Members at the day of meeting : By which time, we hope your Majesty may have so formed your Affairs, and fixed your Alliances, in pursuance of our former Addresses, that your Majesty may be graciously pleased to impart them to us in Parliament.

“And

“And we no ways doubt, but, at our next assembling, your Majesty will not only meet with a compliance in the Supply your Majesty desires, but with all such Assistances, as the Posture of your Affairs shall require: In confidence whereof, we hope your Majesty will be encouraged in the mean time “to speak and act such things,” as your Majesty shall judge necessary for attaining those great ends we have formerly represented to your Majesty.”

N. B. Thus far the Compiler was absent.

[The House then adjourned, by his Majesty's pleasure, to May 21.]

Monday, May 21.

The Parliament met, according to his Majesty's Proclamation.

The King made no Speech, but ordered one of the Secretaries to acquaint the House of Commons, “That he would have them consider the substance of his last Message as soon as they could; for that he intended a Recess very suddenly*.” Whereupon, the

Earl of *Ancram*.] Moved, that the King's last Message might be read.

Mr *Sacheverell*.] He has not heard the Message, for he was not here when the Address was made; but, if he understands it right, the Message seems to be, and he hopes it is, “for Alliances, &c.” that when we came back, we might see our Money laid out—before we came hither again. Before we come to a Question; several things are to be taken into consideration; as, whether the Nation may be preserved by Peace, before we think of War; and how far either is for *England's* interest? And, if Gentlemen enter into Debate, what our Interest is, then 'tis time to speak, whether to give, or not; and how much. He would know, what Alliances we have made since we met last, and whether the Money be laid out according to your intention.

Mr Secretary *Coventry*.] As to the Question *Sacheverell* proposes, he knows not of what nature it is. If Alli-

* This is not mentioned in the Journal, though the subsequent Motion is.

ances are made, or not made, they are not to be talked of in public. The King has Alliances with *Spain*, *Denmark*, *Sweden*, and many others. He would know what *Sacheverell* means.

Mr *Sacheverell*.] If the case stands there, he would know what new Alliances have been made—He thinks the Nation may be preserved without expence of blood, or treasure. He proposes, fairly and calmly, that the thing may be opened, and that we may take the safest and securest way for the Nation, either by Peace or War. Unless such Alliances are made as we addressed for, 'tis in vain to make War, and run into hazard with potent neighbours, as we did before, when we wanted Alliances. He moves, that we may go into a Committee of the whole House, for the more free and full Debate of the thing; and that it may be scanned where our Interest lies. As to *France's* growing greatness, it being greater than is consistent with the Interest of *England*, he would know how he came by that power, that, as he has it, he may be reduced back again. As to his number of Shipping, his Purse is too big for us; and if an Alliance with *Holland* be not secured, we can never combat both their Fleets. 'Tis the Interest of *Holland* to be ready to join with us, and we with them; and, if joined, *France* can never come up to us, in number or force; and so we may preserve the *Netherlands*. He would have the House go into a Grand Committee, fairly and calmly to debate of Alliances; and if that way will not do, he will go what way you please.

Mr Secretary *Williamson*.] He is not against the Motion, if the thing were not already done. We are off of that "of Alliances." It has been already debated, and addressed to the King, and a return of Answer upon it; and the matter is gone beyond debating. The last Return from the King to your Address, was, "He would do what you advised him; and without such a Sum of Money, or Credit for it, he could not speak nor act the request of your Addresses." This being a
Con-

Continuation of Parliament, *Sacheverell's* Motion is over entirely. The Question is, plainly and nakedly, What will you do? In matter of Alliances, the King tells you, "He cannot act nor speak of it, without being farther in a condition of owning it abroad." And the thing can admit of no other Answer than is already given by the King.

Sir *William Coventry*.] He hopes no time has been lost, since we met last; and hopes that what we then desired is done, though not told us in what manner. He finds himself to have the same inclinations he had before, and has ever since persisted in them, and hopes he shall never waver. The thing is rightly stated. To enquire what Alliances we have entered into, since we met last, is not our Question; or whether Peace be properly Alliances; but our present Purpose is, whether the Alliances, that require the Assistance of the House to maintain them, are proportionable to our ends in our Address; and if they appear to be so, he will then not be wanting to support them. It has been said, "The matter requires more time to finish, than this intermission of five weeks." But our first Address was a longer time before than since the Recess. He has heard, that the Triple Alliance was made in five days, when *Holland* had Peace, and no more need of our Alliance than *France* had. Can any man think that *Holland* requires your Alliance less now, than when they were in Peace? He cannot imagine it hard, in time of War, to admit of a Confederate, the Triple Alliance being done in five days—The King's Ministers know their time best; therefore we mentioned no time for our Recess; and, by the time we met, we expected Alliances to be made; and we needed not have met, if Alliances were not fit to be declared, nor ripe to be told us; being not fit to alarm our neighbours, but so that all may enter into the War together; for it is feared it should alarm *France*. If it were in his choice, he would rather have him alarmed in summer than in winter, when his Armies are

in the field, and employed. In winter, the *French* King has no other employment—Is it a less alarm to give Money to support Alliances, than to declare War? We must have something for it, he knows; for why do we give it? If Alliances are not made, we are come too soon. Perhaps a Post or two may ripen Alliances fit for imparting; and moves to adjourn to *Thursday*.

Sir *John Ernly*.] He hears it said, “If we are entered into War, we know what to give”—The King tells you, “He cannot stir one step farther without 600,000 *l.*” He wishes that Alliances might be made without Blood; but he understands them not. With *Spain* you cannot make one step farther than is upon you already, but what must produce Blood. That step is a War. He comes not here to ask Money, but we cannot be insensible of our own weakness. We want Ships and Stores, and the King has used all his Credit, but cannot get any [thing] from the City, but doubtful Answers from the Lord Mayor—There are forty-two Ships ready, and there are thirty more preparing; and if all you have given had been in ready Money, there could not have been taken a better course—All thirty ready in twelve weeks; and Stores, as far as Credit will go, are taken care for; and if, in this case you are in, you will go farther, you must assist the King.

Sir *Thomas Lee*.] It has been said, “It will be useful to adjourn a day or two; possibly Alliances may be perfected in that time.”—You are told of “forty-two Ships ready, and thirty more going on.” So you are told you have matter of defence, and are in safety enough to befriend your Alliances, which may possibly be finished in two or three days; and you may adjourn to *Wednesday*.

Sir *John Ernly*.] Whereas Gentlemen say, “You are, as to Ships, in as good a posture as you were a year ago,” he knows that Ships are forced to beg Press-Warrants, by reason of many seamen being gone out, having no other employment than in Merchant-Ships.
The

The *Dutch* and *French* have got them from us: Therefore he would never advise to run into a War, till all things are fitted for it.

Mr Secretary *Coventry*.] He thinks of our Address, and the King's Answer, as, when Mortgages are made, 'tis not enough for one party to consent; both must. The King says, "Without a Fund of 600,000 *l.* he cannot act nor speak, &c." And we cannot farther urge the thing, unless we give the King a reason for what we advise. 'Tis the happiness of the Kingdom, that the King either by reason brings us to his opinion, or we bring him to ours in this thing.

Mr *Mallet*.] We were bare-faced then, when we made the Address, and wonders we should not be so now. All we do is insignificant, if we know not what Alliances are made. The King may "act and speak" out, if he pleases; and we may have assurance mutual, that it is to support the Protestant Cause. 'Till then, he begs leave to sit down again.

Sir *Thomas Meres*.] Upon your Journal, 'tis eight weeks since you debated first this matter. A week before *Easter*, we were as forward as now; only more Ships are gone out, and so the King is better "able to speak;" but, it seems, the matter is not yet ready. We desire security from the fears of the growth of *France*. He agrees with the Motion for a Committee of the whole House, to consider what other way will stop the growth of the power of *France*, if this will not do. The Triple League was made in five or six days, and this has been six weeks depending, and the matter [yet] in agitation. Those Alliances look like War, and we do it like War. He agrees with the Motion for Adjournment, and by *Thursday*, possibly, we may have an Answer, for a fuller account. The King then, "not being able to speak or act, &c." that which is left to you is, to consider whether the King is in a sufficient posture to propound and accept Alliances. If we had had other Ministers, Alliances would have been propounded, or accepted, in all this time, &c.

You must either be the *French* King's Province, or Creatures, or fortify yourselves against his power. A Post or two may give you farther satisfaction; and he would adjourn for a few days. In answer to Secretary *Coventry*, there is never good of it, when the King of *France* is so well acquainted with our Counsels.

[Sir *Thomas Littleton*.] He has a farther reason for adjourning for a few days. He speaks only to what is vulgarly reported. He considers the Disorders that the foreign Ambassadors are in here. The Baron of *Bergereck* is in a doubtful condition here, as not being owned by the Ministers of *Spain* at *Brussels*. If any Overture be from abroad, by reason of this, it will be later; therefore he would take a competent time of Adjournment, till *Friday*. He remembers, *Grotius* says, in his book *De Jure Belli et Pacis*, on the causes of making War, "If a Prince makes extraordinary Preparations, or any thing tending to it, 'tis not only a just cause for his neighbouring Prince to arm, for jealousy of his safety, but, unless he desists that Preparation, to make War upon him." The use he makes of it is this; that the King of *France* has a vigilant Council, and a watchful eye upon the King, and our Messages to him, and his Answers, and on the King's demand of 600,000 *l*. When this was on foot, 'tis not to be imagined but that this expostulation being made, either the *French* Ministers are told, that this is not against *France*, or are left doubtful where it is intended. Why then is this darkness to the King's subjects, when the matter is clear to the King of *France* one way or the other? He would divide the Question; one, to adjourn "the Debate," and the other "the House."

[Mr Secretary *Coventry*.] If *Littleton* would have spoken to him about the Baron of *Bergereck*, he would have satisfied him. Don *Salines* is not owned by the King of *Spain*, as Ambassador; he is only sent by the Duke of *Villa Hermosa*—Never any public Minister stayed

stayed so long here without Credentials from his Master. He is owned only as Envoy from the Duke of *Villa Hermosa*, and not as Ambassador from the King of Spain.

Sir *Thomas Littleton*.] He believes what *Coventry* says to be so, but there is dissatisfaction from *Brussels*, about the Baron of *Bergereck*, by reason of the great distance from Spain thither, and the slowness there practised; and he has seen letters that say they are dissatisfied about him at *Brussels*.

Mr Secretary *Coventry*.] The Duke of *Villa Hermosa* does not disavow him.

Sir *Thomas Clarges*.] Moves for reviving Committees.

Ordered, That the Committee be revived for the Bill to recall his Majesty's subjects out of the *French* King's service. [Adjourned to *Wednesday*.]

Wednesday, May 23.

His Majesty sent for the House to *Whitehall*, and made the following Speech, which was afterwards reported and read by the Speaker:

"Gentlemen,

"I have sent for you hither, that I might prevent those mistakes and distrusts, which I find some are ready to make, as if I had called you together only to get Money from you for other uses than you would have it employed.

"I do assure you, upon the word of a King, that you shall not repent any Trust you repose in me, for the safety of my Kingdoms; and I desire you to believe, I would not break my Credit with you.

"But as I have already told you, "that it will not be possible for me to speak or act those things, which should answer the ends of your several Addresses, without exposing my Kingdoms to much greater dangers;" so I declare to you again, that I will neither hazard my own safety, nor yours, untill I be in a better condition than I am able to put myself, both to defend my subjects, and offend my enemies.

"I do farther assure you, that I have not lost one day since your last Meeting, in doing all I can for our defence;

fence; and I tell you plainly, it shall be your Fault, and not mine, if our Security be not sufficiently provided for*.”

[Debate.]

Mr Secretary *Williamson*.] One is for going into a Grand Committee, upon a Motion of Explanation of our Address, which seems not well understood by the King; and another, to know our own minds, what are these Alliances—But, as he takes it, all this matter has passed already over, in our own minds—We have sufficiently known the growth of *France*, and the hazard of the *Netherlands*; and these can be but one sort, and in one place. The King answers, to that of *Flanders*, “He is of our mind entirely;” and upon these returns, the best way to do them is, by giving him Money for Preparations. A short Recess was made, and no doubt but the King complied with the House; and we may be assured, that, if we give Money, we shall have our ends. The King has resolved to proceed to these Alliances, and there where you desire him; and he dares assure it. Therefore, why should we debate all this over again?

Sir *Edward Bainton*.] Here are two things before you, Money and Alliances. He is so much dissatisfied that we did precipitately enter into “Money,” that, he believes, if it had not been done, you would have had “Alliances” before now. He is for Alliances, but not upon implicit faith. No one man is certain of every thing. The *French* Ambassadors were civilly treated; and, they say, had a good desert at parting, when they were lately here—There is a Truce proposed at *Nimeguen*; and we have a potent neighbour upon us. He would have us go into a Grand Committee; not

* Had the word of a King never been forfeited, it is reasonable to suppose, that, upon this great occasion, it would have been taken: Or, if all appearances had not been utterly irreconcilable with these professions, those who contended so warmly for the end, must have granted the means. But, as the

case was, opposition was not only countenanced but applauded; and the majority, both of the Parliament and People, acted as if there was more reason to dread the designs of their own Monarch, than even of his brother of *France*.

Ralph.

—because

because one, two, or three may speak twice, but not precipitately to jump into Money. He would be informed by freedom of Debate, which, by Order of Parliament, is not to be restrained in a Committee to speak but once. For Alliances, in the first place; and what Alliances are to be entered into, that the whole Kingdom, as one man, may be against him that shall advise the contrary. He means "this House."

Exception was taken at his words, "rise as one man, &c."

Sir *Thomas Meres.*] *Bainton* said not a word of War, in what he said. "If any single man dare advise Alliances, contrary to this House, the whole body of the Nation, "as one man," may be against him." As they are against you, you must be against them; and if we may not say so, farewell all! But he will give words to the Question: He would have it be, "to go into a Grand Committee, to consider of an Answer to the King's Speech."

Sir *Philip Warwick.*] Let us make Alliances among ourselves. When we are debating them abroad, let us not quarrel with ourselves. He would rather quench the flame, than increase it. *Bainton's* words were, "Rise, as one man, against him that should advise the contrary." The words are sounding a Trumpet of War; words not fit to be said here. What will the World think of us, to fall so particularly into a diffident Answer to the King's Speech? Though we are his Great Council, we are not his Directors. He has been at his Master's elbow (the late King) when the hatchet was almost at his head—He would leave off these heats, and would have that caution, that the Committee may proceed with confidence in the King.

Sir *Thomas Littleton.*] He observes some exception taken at what fell from *Bainton*. He would therefore go into a Grand Committee, for more freedom of Debate. But since *Warwick* called it "a Trumpet of Sedition in *Bainton's* mouth," which words can have no other explanation than "Rebellion," (which words

Bainton

Bainton did not say) he desires an explanation from *Warwick*—He would therefore, for more freedom of Debate, go into a Grand Committee.

The House then resolved into a Grand Committee, on the King's Speech. Sir *John Trevor* took the Chair.

Sir *Eliab Harvey*.] Moves, "That we may enter into an Alliance, offensive and defensive, with the States of *Holland*."

Sir *Robert Howard*.] War is not a necessary consequence of Alliances. Trusting the King, or not trusting the King, is a word of a strange nature—Will not be put to it, Trust or not trust. No man can bring it up so strictly. He speaks this upon grounds that are deep, and not strange. Some, he hears, say, "Alliances *may* produce a War;" and some say, "*must* produce a War." To put the King upon Alliances with the *Dutch*—Is that all? One is slow-paced Necessity, and another a quick Suspicion. Consideration is best for every body; and he would adjourn to *Friday*.

Sir *John Hotham*.] He ever thought it fit for us to *abate the pride, assuage the malice, and confound the devices* of the King of *France*. Plainly, he desires, as *Harvey* has moved, "That we may make an Address to the King, to make a League, offensive and defensive, with the States of *Holland*, against the King of *France*."

Mr Secretary *Coventry*.] He hears a Proposition made, that he never heard of before, "To enter into a League, offensive and defensive," without any Treaty ever made; and another Gentleman moves "for a League to be made with the Confederates." You will never see a Precedent of any such Vote.

Mr Secretary *Williamson*.] Some are jealous, as if the King does call for Money for other ends than you desire. The King tells you, "That, in the interim of your parting, he has not lost one day in doing what you have desired."—He takes notice of one Motion "for a League with *Holland*, offensive, and defensive," and another

another "with the Confederates, &c." He knows not how this can be made any part of the King's Speech. 'Tis a great goodness, that the King has so graciously answered us; and let us not go farther than becomes this loyal House of Commons; that we may expect to be gratified in a thing we strain not too much. Under 600,000*l.* the King can do nothing; and that is the naked thing before you, and proper for your Consideration.

Mr *Sacheverell*.] The Honour of the House is always to be preserved, and the good opinion of the King and People; and it will be so, to go by the same steps as when you were here last—To tell the King what Alliances you mean. In delay there will be danger, and the season of the year will be spent. When the King imparts those Alliances to us, then we may assist him in the support of them.

Sir *Christopher Musgrave*.] Can the King make you any other Answer than what he has done already? There is no proper Question before you, but, how to enable the King to enter into Alliances.

Sir *Thomas Meres*.] He is not for a Negative. The House has already declared how Money may be had; "by declaring Alliances." But it has been answered twice, "No; Alliances cannot be declared till we give Money." He would know what we are called together for now, by Proclamation. He conceives we are now here to give an Answer to the King's Speech when we were here last.

Mr Secretary *Coventry*.] When you rose last, you were not a sufficient number to answer for the whole Kingdom; therefore you then were adjourned. So that you are at a stand, till you enable the King "to act and speak," as he tells you.

Sir *Thomas Meres*.] He believes, the King will be convinced by our Reasons. We were, when we met last, willing to give the King Credit, till 200,000*l.* was expended, in maintaining the Alliances we desired. And by this time we expected Alliances should be told

us. But he finds not one step of Alliances made. One said, "He was confident the King understood what Alliances we meant;" and another "not."

Mr *Sacheverell*.] You have Reasons given you, why Alliances should be entered into. *Treves*, for want of them, was devoured by the King of *France*; and shall we be so too? What condition are we in, to buy a Peace with *Holland*, as *Coventry* says?—And because now we are afraid of *France*—He would gladly have shown him how they can employ 600,000 *l.* in making such Alliances. Whilst this Alliance is making, do they think to be ready by Winter, and fight in the Spring, and let *Flanders* be lost, and then be put to get it again? Is this the meaning? Give 600,000 *l.* to be in the hands of that Council, which broke the Triple League, and greatened *France*! What instance can be given, that those Gentlemen have changed their Principles? Men are still sent out of *Ireland* and *Scotland*, and Arms out of the Stores in *England*; and they persuade the King, that nothing can be done without 600,000 *l.* Let them not dally with us, and put us off thus with fair Promises, as they have done. When Peace was made with *Holland*, we desired it exclusive to *France*. 'Twas said then, "Trust the King;" and you were deceived then: Will you be deceived twice? Let them own Alliances, and we are for them. If not, he would not give them a penny.

Mr Secretary *Coventry*.] He would have *Sacheverell* tell him what he said then. He remembers not.

Mr *Sacheverell*.] 'Tis unfortunate that such Gentlemen as *Coventry* had not the Guidance of Affairs. He fears the Popish Interest have, and he believes him not to be so inclined—'Twas said then, "Trust the King:" And what is become of that Trust, you all know.

Sir *Nicholas Carew*.] As to *Coventry*'s Story (of the Spaniard who was so poor when he died, that he desired to be buried in his cloaths) if we trust them again, that have made us thus naked, and advised the assisting *France*, we cannot trust them. If the King
will

will make Alliances against *France*, he will give as much as ever; and we have given enough, he is sure of it.

Mr *Williams*.] What has been said to us in Speech, Discourse, or Message, is not to be looked upon as the King's—He gives them their true weight; they are the product of Councils. Therefore he would begin where we ought, from whence it comes. We agree, in the main, for the Safety of the Kingdom—In some measure, the King is of our opinion. The thing we are to do, is to stop the power of *France*, which intimidates every man—We have addressed, but, it seems, too generally about Alliances—But let us be against the Growth and Power of *France*, this day, or never—And he will give all he has to defend us, expressly in opposition to the *French* Greatness; either for an Alliance with *Holland*, or the Confederates. Till then, he will not give a penny.

Mr *Mallet*.] King *James* was said to be “the *Solomon* of his age.” Our King is heir to his virtues—There is something more recorded of *Solomon*; he fell to strange Counsels by strange Women. And we cannot repose any confidence in the King, if he puts his Counsel into “strange Women.” If they be left, God will bless his Counsels.

Sir *Thomas Meres*.] There are but two ways, either to defend ourselves from *France*, or comply with him. When we are afraid of a man, we either get his good-will, or take away his power. There are but these two ways—He would fain let his good-will alone a year or two longer.

Sir *John Ernly*.] He hopes the King understands the meaning of these Alliances. He shall reply only to *Sacheverell*, whom, he believes, his zeal has caused to say what he did. And he (*Ernly*) has zeal too, to concur with all these Alliances; but, by haste, he would not defeat our intentions. The King says, “He has lost no time.” 'Tis known, that a separate Peace is very closely treated of, between the *French* and *Dutch*;
and

and he hopes no public thing will be done here to hasten that Agreement. He has heard it said here, "There is no danger possible to us from the *French* Army being employed in Summer, &c." He hopes it may be so before *Michaelmas-day*. But we are an open shore, and the King of *France* has Privateers of great burden to annoy us—Masters of Ships say, "they saw thirty Ships, with 8000 men, bound for *Sicily*, and they met another squadron of *Dutch* Ships, so weak, that they were likely to be lost, if they engaged them." He says this, to have it weighed, that such an Address may be made, that you may arrive at the end of your desire.

Sir *Edward Bainton*.] Suppose you should make a Vote for Money—What you have given raises you no Credit. What is the reason, that, when we gave less sums formerly, there was greater Credit upon them? It is, because now they know not what to do with it—The Alliances are not known; and the King says, "He cannot make you any Answer, &c." which is prudent. For if we come not to Particulars, if there be a Miscarriage in making the Alliances, none of it will be laid at our doors—If we mention Alliances, we encourage them to be made. 'Tis well known, there have been ill Counsels; and what know we how those Gentlemen's words will be represented in their meaning?

Lord *Cavendish*.] He hears it called "The King's Speech," though he thinks it rather the product of ill Counsel: 600,000 *l.* is demanded, to enter into and declare Alliances, because the King, by chance, may be engaged into a War—"Tis an ill precedent to charge the People, because the King may have a War; they may be so charged for the future. If the consequence of such Alliances must be a War, 'tis better now the *French* hands are full, and no danger of invasion, if the King makes those Alliances that we would now make. He hears "great difficulty in making these Alliances;" and "not to be done without a great Sum of Money."

The

The Parliament said, "They will support Alliances"—And since we met, nothing has been done in pursuance of our Address, for stopping the growing Greatness of *France*. There is a great deal of Money asked; and how it may influence our Counsels, he examines not; but he expected Alliances against we met. He moves now, "That we may make Alliances with *Holland* and *Spain*."

Mr Secretary *Williamson*.] He is glad to see us come towards some end. We have had many pauses. If the King's hands are not to be trusted with the Money, clear that. But that Question carried, that is moved for, viz. "An Address to the King," is but calling for another Question, and is not to the point in question before you. If you distrust putting the Money into the hands of those who have so little satisfied you already, then 'tis proper to remove those who have had it in management, before you can go into any Alliance. It has been said, "That there are some who would be as glad of a Refusal, as of our giving Money:" He would have no such Reflections here. He knows no such persons. But hitherto this Motion is an untrodden path; and he would not come by precipitation to that first, but have it well thought of first.

Sir *Thomas Meres*.] Can it be imagined but that the Question of Money will have a Negative? Therefore press it not.

Col. *Birch*.] It has been said, "We have had several pauses." But he will set the cart on wheels, if he can, whilst he is here. But if "there have been pauses," 'tis because you find no Alliances made. Is any thing clearer, than that, if the King would but make the Alliances we desire, we would not only give that Sum, but more? He would have us adjourn from three days to three days, till it be done; and he will move it. Chuse whether you will take his counsel, or not. Your Safety depends upon this Question, What to be done, and when. Every Gentleman says, "he would have Alliances made against the King of *France*." He hears that, when the Bishop of *Rheims* was at *Oxford*, he saw

a book, dedicated “To the King of *England, Scotland, France, and Ireland* ;” and he threw away the book. But should he meet him again in *England*, he would have affronted him. If ever, the time is now to declare. If Gentlemen can show him that we are in inevitable danger, and cannot resist the King of *France*, then they say something. But, in six weeks time, he’ll find a way to raise a Million of Money, upon occasion of these Alliances. He thinks that nothing under Heaven can hinder raising the Money, if these Alliances were entered into; and what can hinder the Alliances? In short, there is no Money to be had without Alliances; and, till then, we have no security of our Lives or Religion. He is for ready Money, and this may easily be done. Your Extravagances will raise this Money. He mistrusts not the King’s Ministers, and would have this great action wipe away their miscarriages. He hopes they will over-strive and over-do one another, as we shall do; and would appoint a Committee “to draw up Reasons for an Alliance with *Holland and Spain*.”

Mr *Sawyer*.] As long as that door of *France* is open, our Wealth will creep out at it, and their Religion will come in. War and Peace are in the King’s breast; but he never found it successful but when with the concurrence of the Parliament. The King has told you, “That, till something be done to enable him to enter into Alliances, he cannot move farther than he has done already.” But he admits your Advice. In the *Palatinate* War, in King *James*’s time, the Commons’ Advice was not taken in time, and their hearts were dead, when afterwards their Advice was called for. But he sees not why there should be a Competition between the King and this House—Whilst we go on in preparing your Money, Alliances may be preparing and finished. But he hears it said, “This is a hardship put upon the King; the *Hollanders* and *Spaniards* will stand more upon Terms, by our forwardness:” But you may be ready to alter your opinion, upon occasion.

caſion. He would have the thing to be doing, whilſt you are ſitting, and would have them go hand in hand.

[Sir *William Coventry*.] Our Intereſt is to keep *Holland* faſt to us, upon whom the danger is great, and our aſſiſtance from them may be great alſo. 'Tis our good fortune that the Houſe is not all of one opinion, ſo that Truth may come better out by Argument. *Ernly* ſaid, "Our declaring to deſire Union will make *Holland* and *France* readier to agree." But if any thing make them agree, the being tired out, and not ſeeing thoſe, who are equally concerned, give them help, he is afraid, will make them agree—It may cauſe a Deſpondency in them. If he was of the States of *Holland*, he could not find one word to ſay of Safety for them, to continue the Greatneſs of the King of *France*. "We have tried the People of *England*," they may juſtly ſay, "but they do nothing." But if they think themſelves unable to help themſelves, and perſons concerned do it not, they muſt ſhift as well as they can. When the danger had not preſſed them ſo near, and *Flanders* was a better Bulwark to them than now, the conſideration of this made *De Wit*, who loved not *England*, join with us againſt the Greatneſs of *France*. Shall we think that the Prince of *Orange*, at the head of their affairs, will have leſs ſucceſs than *De Wit* had? And can we expect but that, if we give them help, conſidering all circumſtances, *France's* progreſs in his conqueſts may be ſtopped? If we continue to neglect this, what can ſecure *Holland*? Is it dangerous to provoke *France*, now *Holland* is his enemy? Will it not be much more when they are both friends? *France* gave Warrants for fiſhing to *Holland*, and that joined them. As for Preparations, there need not fix Millions to keep the *French* out, by Fortifications. He found Papers and Liſts in Sir *Robert Long's* Office, of Fleets and Eſtimates, in the *Scotch* War, in the late King's time; it ſeemed to him, as if things were managed then on purpoſe to ruin that good King. He was adviſed to ſet

out second-rate Ships against *Scotland*, and the King had got a good sum of Money by the Lord Treasurer *Juxon's* means; some of it was spent on the Army, but much on a great Fleet—Great Ships to catch small *Scotch* vessels; lobsters to catch hares. If therefore we go about to stop *France's* progress by a War, 600,000*l.* would not make necessary Preparations. In our mutual League with *Holland*, we wish them to bear the brunt. A provision of forty Ships of a side, he thinks, would keep *France* pretty well in order; and for these forty Ships being kept out a whole year, 600,000*l.* will do that whole year's business. There needs little charge in Embassies; a good-will will do that cheap. He would clear that suspicion out of the way, of falling upon Ministers; we know, there has been little effect of that. But he hopes, whether there be faults or errors (he knows none unless that to subvert our Religion) the King has passed a general Pardon, and he hopes every Gentleman will give them oblivion in his own heart, if they will redeem what is past, by their good deportment in this great business.

Mr *Vaughan*.] He has heard, that the Lords of the Council have sent to the body of the City to borrow Money.

Sir *Nicholas Carew*.] 'Tis said, that the Lord Mayor and the City would not lend the King any Money, because they could not do it upon a Security that was already another's: For the Excise was anticipated, and farmed out.

Sir *Thomas Clarges*.] As for Money borrowed of the City, the Aldermen say, that it is the usual and ordinary way to be done by the Common-Council, and not by twenty particular men, (the Aldermen;) but he believes there is no Anticipation upon the additional Duty of Excise; for no body would take Tallies of Anticipation upon a Security not yet begun.

Sir *William Coventry*.] When the King does any thing of this nature, he will have regard to our words. He fears that *Spain* may have many concerns we know of,

not of, and great cloggs and difficulties. But if we take care that the States of *Holland* stand, as to *Spain*, it may soon stand by itself.

Mr Secretary *Coventry*.] As to the Motion of leaving out "*Spain*," your former Address was "for the Preservation of the *Spanish Netherlands*." *Spain* is in danger, so is *Burgundy*, and *Sicily*, and, perhaps, the *East Indies*, and if they see themselves abandoned by *England*, who will not think it good policy in them to give up the *Netherlands* and *Burgundy* to *France*, upon Terms? Leave them out of the Treaty, and their interest is to give all up to *France*. Therefore he would have "*Spain*" named in the Address.

Col. *Birch*.] The Motion is "to leave "*Spain*" out of the Address." But on account of the remoteness of *Spain*, and their many concerns, he thinks it not fit to name the League with the *Spaniards* in the same Terms as that with *Holland*, offensive and defensive. If we stay for *Spain* and the Confederates, we lose our present opportunity. So that of "*Spain*" may be done at leisure, and yet not left out.

Sir *Thomas Littleton*.] He is as tender as any man, that this matter shall not be obstructed. If *Spain* be without Powers for a Treaty, and send to *Madrid* for them, a speedy Alliance cannot be made. This Vote is for "*Holland*," particularly; but the other Confederates may be comprehended in general terms.

Mr *Sacheverell*.] All the dispute about "*Spain*" is only about leaving it out of the first Question, and having it in the second. He would have the Question goingly, "offensive and defensive for *Holland*, and defensive as to the *Netherlands* only."

Mr *Pepys*.] Do not return an Answer to the King, that has no affinity to his Speech. The King may say, "These Gentlemen are very instant in this thing. Have I given them any cause to be so?" Whereas he plainly tells you, "He will be as forward as you to do it." The sum demanded to support Alliances is 600,000 *l*. How many more occasions will there be for this sum,

than barely for setting out the Fleet? He prays only an Answer to the King's Speech, in order to support him to grant your desires.

Col. *Birch.*] Should your Resolve go barely to the King, 'tis then as *Pepys* apprehends it. But the Address must go with Reasons for Satisfaction, together with Assurance of Money.

Sir *Thomas Lee.*] 'Tis necessary to say something to the King concerning Money; and he would show, in the Address, the necessity to speed these Alliances, lest it be too late to do it in the Winter.

Resolved, That an humble Address be made to the King, That his Majesty would be pleased to enter into a League, offensive and defensive, with the States General of the United Provinces; and to make such other Alliances with such other of the Confederates as his Majesty shall think fit, against the Growth and Power of the *French* King, and for the Preservation of the *Spanish Netherlands*. (To which there was not a Negative but Mr Secretary *Williamson*.)

Resolved, That a Committee be appointed to draw up the Address, with Reasons why this House cannot comply with his Majesty's Speech, untill such Alliances be entered into; and farther showing the necessity of the speedy making of such Alliances; and, when such Alliances are made, giving his Majesty Assurances of speedy and chearful Supplies, from time to time, for the supporting and maintaining those Alliances.

Friday, May 25.

Sir *John Trevor* reported the Address, [which was read, and is as follows:]

"*May it please your most Excellent Majesty,*

"Your Majesty's most loyal and dutiful subjects, the Commons, in Parliament assembled, having taken into their serious consideration your Majesty's most gracious Speech, do beseech your Majesty to believe it is a great Affliction to them, to find themselves obliged, at present, to decline the granting your Majesty the Supply that your Majesty is pleased to demand; conceiving it is not agreeable to the usage of Parliament, to grant Supplies for the maintenance of Wars and Alliances, before they are signified in Parliament; which the two Wars against the States of the United Provinces, since your Majesty's happy

Resto-

Restoration, and the League made with them in *January* 1668, for Preservation of the *Spanish Netherlands*, sufficiently prove, without troubling your Majesty with instances of greater antiquity. From which usage if we should depart, the Precedent might be of dangerous consequence in future times ; though your Majesty's goodness gives us great security during your Majesty's reign ; which we beseech God long to continue.

" This consideration prompted us, in our last Address to your Majesty before our late Recess, humbly to mention to your Majesty our hopes, that, before our meeting again, your Majesty's Alliances might be so fixed, as that your Majesty might be graciously pleased to impart them to us in Parliament ; that so our earnest desires of supplying your Majesty for prosecuting those great ends we had humbly laid before your Majesty, might meet with no impediment or obstruction ; being highly sensible of the necessity of supporting as well as making the Alliances humbly desired in our former Addresses ; and which we still conceive so important to the safety of your Majesty and your Kingdoms, that we cannot, without unfaithfulness to your Majesty, and those we represent, omit, upon all occasions, [humbly] to beseech your Majesty, as we now do, to enter into a League, offensive and defensive, with the States General of the United Provinces, against the Growth and Power of the *French King*, and for the Preservation of the *Spanish Netherlands* ; and to make such other Alliances with such other of the Confederates as your Majesty shall think fit and useful to that end. In doing which, that no time may be lost, we humbly offer to your Majesty these Reasons for the expediting it :

" 1. That, if the entering into such Alliances should draw on a War with the *French King*, it would be least detrimental to your Majesty's subjects at this time of the year ; they having, now, fewest effects within the dominions of the *French King*.

" 2. That though we have great reason to believe the Power of the *French King* to be dangerous to your Majesty and your Kingdoms, when he shall be at more leisure to molest us ; yet, we conceive, the many enemies he hath to deal with at present, together with the situation of your Majesty's Kingdoms, the unanimity of your people in this cause, the care your Majesty hath been pleased to take of your ordinary Guard for the Sea, together with the Credit provided by the late Act, entitled, " An Act for an additional Excise for three years," make the entering into and declaring Alliances very safe ; untill we may, in a regular way, give your Majesty such far-

ther Supplies, as may enable your Majesty to support your Alliances, and defend your Kingdoms.

3. Because of the great danger and charge which must of necessity fall upon your Majesty's Kingdoms, if through want of that timely encouragement and assistance (which your Majesty's joining with the States of the United Provinces, and other the Confederates, would give them) the said States, or any other considerable part of the Confederates, should this next winter, or sooner, make a Peace or Truce with the *French King* (the prevention whereof hitherto must be acknowledged to be a singular effect of God's goodness to us;) which if it should happen, your Majesty must afterwards be necessitated with fewer, perhaps with no Alliances or Assistances, to withstand the power of the *French King*, which hath so long and so successfully contended with so many and potent adversaries; and, whilst he continues his over-balancing greatness, must always be dangerous to his neighbours, since he would be able to oppress any one Confederate before the rest could get together and be in so good a posture of offending him as they now are, being jointly engaged in a War. And if he should be so successful as to make a Peace, or disunite the present Confederation against him, it is much to be feared whether it would [be possible ever to re-unite it; at least, it would] be a work of so much time and difficulty, as would leave your Majesty's Kingdoms exposed to much misery and danger.

“ Having thus discharged our duty, in laying before your Majesty the dangers threatening your Majesty, and your Kingdoms, and the only remedy we can think of for preventing it, and securing and quieting the minds of your Majesty's people, with some few of those Reasons which have moved us to this, and our former Addresses, on this subject; we most humbly beseech your Majesty to take this matter into your most serious consideration; and to take such resolutions, as may not leave it in the power of any neighbouring Prince to rob your people of that happiness which they enjoy under your Majesty's gracious Government; beseeching your Majesty to rest confident and assured, that, when your Majesty shall be pleased to declare such Alliances in Parliament, we shall hold ourselves obliged, not only by our promises and assurances given, and now with great unanimity renewed in a full House, but by the zeal and desires of those whom we represent, and by the interest of all our safeties, most cheerfully to give your Majesty from time to time such speedy supplies and assistances, as may fully and plentifully answer the occasions; and, by God's blessing, preserve your Majesty's honour, and the safety of your people.

“ All

“ All which is most humbly submitted to your Majesty's great wisdom.”

[Debate thereon.]

Mr Secretary *Coventry*.] This Address is to the King, to stop the great and over-balancing power of the *French King, &c.* He hopes it will not be interpreted ill will to this Address, when the means desired may attain your end. The King has returned you an Answer, declaring consent to the substance of the thing you desire, “ but cannot speak nor act a step farther till you enable him.” This is the main Question upon which the whole depends. Unless you come to the King, or the King to you, the danger that you apprehend may remain, and the people lose their remedy against their fears and apprehensions of the power of the King of *France*. Enquire what the reason is, why we should persuade the King to desert—He finds but one—It is, you will grant no Money till Alliances be declared. He asks then, whether you have not given 200,000 *l.* upon the Excise, towards this Alliance? And he thinks this a Precedent—And that is the only argument; which does destroy itself. The King is furnished with another argument, if by way of Precedent—“ To tell the King the manner of his Alliances, offensive and defensive, &c.” The King may tell you, “ there was never such a Precedent, as to tell the King terms of Leagues, offensive and defensive.”—Very little is wanting, but sending the King a Treaty ready-made; the King made the Triple Alliance, not from any motion of this House; it was his own. This is another thing, you tell the King, “ Whether he be in a condition or not, you will have him do it.” He knows it may be answered from the nature of the Writ of Summons of Parliament; but that is *ad consulendum et deliberandum de quibusdam arduis Regni negotiis*, not “ *omnibus, &c.*” The Nation is concerned in this; but when formerly the House of Commons desired *Q. Eliz.* to marry, you know what she said; “ If you name the person whom I am to marry, it is unsufferable.” But, in your case, to nominate

minate terms to the King, he thinks not proper for you. Does any man think that the King will go about to make Alliances against the growth and over-balancing power of *France*, and leave out *Holland*? It cannot be imagined. Consider another thing in this Address, in point of decorum; he has all the apprehensions of the greatness of *France* that you have, to the utmost, but you come and declare the House of *Austria* averse to a Peace; but they never yet published it at *Nimeguen*. What kind of figure will you have of your Sovereign, who sends to mediate, and has the secret depositums of all Princes, and you put him upon this overt declaration, "For preservation of *Flanders* from the King of *France*, &c?" The King, and all the World, cannot but understand your meaning, and it is needless to particularize either. He would have you therefore comply with the King, or give him stronger Reasons why you will not.

Sir *John Birkenhead*.] Here are Precedents in this Address, that he never saw before; he would have the points of it read, one by one.

Several called out, "Agree, agree."

Sir *Charles Wheeler*.] We are called upon, he hears, "to agree," but would be sorry, without some farther consideration, to agree. The paper reported, has three parts, 1st, The Address, &c. 2^{dly}, The Reasons why we cannot comply with the King, &c. 3^{dly}, Assurances of Supply, if the King will make Alliances, &c. The Reasons which are short, he expected longer, for they are no more than what we gave before; they ought to arise from the Debate of *Wednesday*. Few were given in the last Debate, and he expected some more at the private Committee—Of that kind, there is one short one—"A Precedent of the *Palatinate War*."—Those of late time; not troubled with ancient. "That of the *Dutch War* formerly." He would have it derived from History, ancient and prophane, how the people can be entitled to the consideration of War and Peace: It never belonged to the Commons of *England*. When the King engages us in a War, he knows how we are to pray

and petition, but this Address seems to extend farther than our Province extends to. By this Address, the War is declared. Perhaps you may come into a War, and then he shall declare himself farther; but he is not for an Alliance with the *Dutchmen*—We are the greatest people at arms in the world, and we must trust all to the conduct of a *Dutch Army*! He looks for popular arguments—We have soundly paid for a *Dutch War*. As to the last point of “Assurances of Supply, &c.” he takes that to be the short of what we have said already. We say, “We will do it liberally and largely.” But what is that? Some Gentlemen say, “Some Privateers and a Squadron of Ships for the present;” and some are of another opinion. But this Address, as it is penned, is not large enough, or else we take the conduct of the War upon us, from the beginning to the end.

There was a great cry, “Agree, agree.”

Mr Secretary *Williamson*.] He agrees as far in the end of the Address as any Gentleman does, but he fears that the success will show, that this way will not do it. He cannot but think this a new thing, and that it will be far from acknowledging the King's condescension; and that we encroach upon his Prerogative. Let men be ever so hasty, yet if this Paper-Address must go to the King, he yet thinks some parts of it must be mended: As the unprecedentness of the thing done in Parliament; which is but one Reason, and this is not for the maintenance of a War; that is not the point you are upon. The King tells you, “He must have preparatives;” and you must show Precedents why preparations have not been granted, before particular Alliances have been declared. Why must Alliances, offensive and defensive, be the matter of the Address? The people cannot consider it; that is proper only for the Royal breast. “Defensive” consideration is more proper for the people—He never knew an “offensive” League declared here before. You are told, “That the Parliament advised the *Palatinate War*.”—There is nothing too great for this House, but he never knew
any

any thing done of this nature, but the House was first called up to it. They were called to consult of the *Pelatin* War, and of the late *Dutch* War. If there be no Precedent of it, and if but one, he begs of Gentlemen to consider what reception this Address will have, though from the best and kindest of Princes, from such a House of Commons. You desire freedom of Speech and Privilege of Parliament. The King has but few Prerogatives, as coining Money, and making Peace and War, and they are as *land marks*, and are known; they are but few, *and a curse is upon him that removes them.* You are told of the Alliances that saved *Holland, &c.* He will not compare those with the fears upon you at present; but in Queen *Elizabeth's* time, before she could be brought to a League offensive and defensive with them, we had two cautionary towns, and a fort, put into our hands. You, by this hasty Address, are cut off from all hopes of any such caution from them. He has acquitted himself, as his Allegiance and duty to this House obliges him, and he knows not what to advise you. But would have Reasons as strong in the thing as may be, before you go to the King with this Address.

Mr *Neale*.] He is for these Alliances, and therefore would not put the King upon hardships: He would know whether this is not an intrenchment upon the King's Prerogative, to advise him where to make Leagues offensive and defensive.

There was another great cry, "Agree, agree."

Sir *Jonathan Trelawney*.] To cry "Agree, agree," favours to him like Club-Law. You will never offer at Precedents that the worst of times did never attempt.

Sir *Thomas Meres*.] What has been said comes not home to this Address. When there is occasion, he shall answer those points alleged, "of the unprecedentness of it." But as for "naming the States of the United Provinces," in this Address, it was the Vote of the House, spoken to seventeen times, and but few Negatives to it, and he wonders that it should be called

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“ Club-Law.” As for a League “ defensive,” the point was yielded in the Debate, and as little reason to contend “ offensive” League, when it relates to Money. But why must this be thus pressed? Now see the Proclamation, which called us hither—What else did Mr Secretary *Coventry* open to us?—We have obeyed our call; we have humbly and dutifully done it; but so much for Order. He will deny no Motion that has been made.

Sir *John Ernly*.] He agrees to the end of the Address, but he cannot fully to the means. He must put you in mind, that it does so clash with the Prerogative of the Crown, that he cannot agree to it. If he thinks there is no more difference than the word “ *Holland*,” and saying only “ such Alliances against *France*,” he hopes the King will agree to it. If the people desired a Parliament, if they asked a day and place for its meeting, he believes it would not be granted. ’Tis his zeal to the work, or never would speak more if he would have it hindered. Only refers it to your consideration, if the thing be asked in a way not fit to be granted, whether it is not probable it will be denied. It is directing the Crown to make this League—And with the rest do what you please.

Sir *Robert Carr*.] He would not have any intrenching on the King’s Prerogative, in this Address. He would leave out “ A League with *Holland*, offensive and defensive.”—Those words may give offence; and he would not give his Vote to that which may retard the thing, and would have it so amended as to be acceptable to the King.

Mr *Mallet*.] He would willingly be for something, but since *Carr* moves for nothing, he hopes he will excuse him if he be not of his mind.

Sir *Robert Howard*.] The matter rests upon naming an Ally to the King. You agreed to put out the word “ *Spain*” in the Address, and then we were of opinion that it looked strangely, as if affectedly to leave out our best interest, by which the Crown expects the most profitable

ble interest, and best trade. Now you are moved to have "*Holland*" left out, and all senses and opinions may be comprehended in leaving out "*Holland*;" and he is extremely for it.

Sir *Thomas Lee*.] To the Orders of the House. He appeals whether ever, when any Committee was ordered expressly to bring in a thing, that thing, being voted to be part of the Address, shall again be put to the Question ?

The Speaker.] You read a Bill thrice, and nothing is brought into the Committee, but must be debated again.

Sir *William Coventry*.] The good intention and necessity of this Address will carry so much weight with it, that he hopes it will have acceptance from the King. The Committee you appointed to draw it had not done their duty, if they had not gone according to the sense of the House. We have made many and many Addresses to the King, and there has been some reason for it: Because we have not been rightly understood. There seemed to be general moderation, moved by some Gentlemen in the Address, without naming particular Alliances; but that being not acceptable to the House, this is made more particular, to clear our meaning. A reason was given why we should supply the King, without naming Alliances, that we urge not usually in Parliament; our own Act was quoted against our affirmation, viz. "The credit we gave the King upon the Excise, at our last meeting, before Alliances were spoken of." But yet there is no Precedent spoken of, when Money has been given for a War or Alliances before they have been declared in Parliament. It has been the constant usage of the Crown to signify it in Parliament, which gave such confidence in the Commons, that it never doubted of the Commons supply. *He then read a passage of the King's Speech formerly about the Triple Alliance, viz.* "The Fleet had began something, but if not speedily supported by Alliances, he should want means to go on,"

on ;” which shows that the constant method of Parliament is, that Alliances have always been declared in Parliament, and then Supply has been granted to support those Alliances.—There was more said then for the first *Dutch* War ; the second was signified in Parliament, and owned by them so far, that they gave Money to maintain it. If methods of Parliament be an obstacle to this Address, he thinks that is cleared. He would be *fortiter in re, et suaviter in modo*, and he thinks the Address is so, and would agree to it.

Sir *Richard Temple*.] He will speak to the Precedent of 2,500,000 *l.* the first *Dutch* War : That was given before ever Alliances were declared, or Treaty, and was the greatest aid ever given in Parliament ; and the House of Commons have ever declined meddling in things of this nature. You told the King, “ You had provided him a fund for his preparations, and you hoped he would make Alliances, &c.” but never asserted, “ That untill Alliances were declared, you would not give Money,” but left it to him to make the Alliances. He does not know that we are in condition so good as when we began the last *Dutch* War, which cost 700,000 *l.*—He believes it not our condition now as then, our stores being much exhausted. This of pressing the King to declare Alliances, and advising them by Parliament, is no rule of Parliament, and a dangerous Precedent. He agrees to move the King “ To make farther Alliances ;” and then you will have attained your end. ’Tis not for the interest of the Nation, for the King to name Alliances, which will give them opportunity to ask higher terms.

Sir *William Coventry*.] Hostility was begun before the War was declared with *Holland* ; what if there was no Declaration of War ? The House is not used to give sums for War without Declaration of War, and he believes the House had reason for it.

Sir *Nicholas Carew*.] He is sorry that Gentlemen press for more Reasons, and so lay aside that modesty which becomes us. There are more Reasons to be given than
are

are expressed in the Address, but it is not fit for us to express more. He thinks these sufficient.

Mr Secretary *Williamson*.] Since *Carew* says, "He has farther Reasons than in the Address," and Gentlemen seem dissatisfied with what are already given, he would have them produced.

Col. *Birch*.] He thinks the Paper is penned with as much modesty and duty as can be. If there be other Reasons to make the Alliances more particular, he would have them forborn. Our main business is, that the Religion and the interest of the Nation be supported. It was desired by some Gentlemen, "That *Holland* may be left out of the Address;" and the reason is because we shall not have so good Terms with them. Whoever is here for the States General, finds a great willingness in the people to make a League offensive and defensive with them—So they find unwillingness somewhere else. But if they should be so unkind as, when we compassionate, them to use us so as to stand upon exorbitant Terms we, must do the thing ourselves; but he would rather not do with one hand what may be fitter done with two. *Mallet* spoke shrewdly in his reply to *Carr*: In common course of speaking, when a thing is not granted the first time, you add something the second. Would now have the Question put.

Mr *Sacheverell*.] The Question is now, Whether we shall again put these Alliances into the same hands, to keep you off from such Alliances as you address for; and whether the King shall be advised by his Privy Council, and not by Parliament. You give him advice, and submit it to him; and the Privy Council daily practise the contrary. It is said, "That this is a breach of the King's Prerogative." We move him to a League with *Holland*, &c. and it is no breach at all of his Prerogative, it seems, in the Council, to move him to a War. Our whole security depends upon a League with *Holland* against *France*, without whom we are never able to contend with him.—All Counsel
tends

tend to make Alliances.—And you are left wholly single to contend against that powerful Prince.

Mr Secretary *Coventry*.] He is not afraid of any Counsel he has ever given the King; as a Privy Counsellor he has taken his oath, and as a Parliament-man, he has his opinion; and he is of opinion, that the King is not obliged to follow either his Privy Council, or Parliament, if his opinion and reason be against it.

Hen. IV. sent to his Parliament for their advice concerning Peace and War: They referred it to the King, and his Council, and declared, “They had nothing to do with it.” He hopes you will not do a thing to prejudice the thing you intend to do. He may probably be let into this Prince’s door when he scrapes*, but not when he knocks. Perhaps he shall be kept out. To deal in the rougher way with our Prince is not the means to make him incline to your opinion. If any man is persuaded that he is wanting in his duty, if he name not “*Holland*” in the Address, then it cannot be left out. The general way is more regular and decent, and he moves to leave out “*Holland*.”

Sir *Thomas Lee*.] If there be irregularity or indecency in this expression of “*Holland*,” he is far from its being in the Address. But this is far from “a knock at the Prince’s door,” and cannot be gathered from the expressions in the Address. It is but advice and persuasion only. It is hard that the House shall not declare their opinion. The first occasion, perhaps, to get out of our misery, is to know how we came into it. The first step to it was our conjunction with *France*, against *Holland*; the first step we got out of it by was to make a separate Peace with *Holland*; but we find that the bare going out of it had not the effect we desired. What next? Is it not reasonable, that, if we still had kept that Alliance, we had suppressed *Holland* totally? Is it not the same thing now? Perhaps some greater advice is requisite. If it be a single Question, he knows not what the consequence

* The custom of the Court,

may be, in leaving it out, now it is put in. It is but plainly and barely showing your opinion, that you are not safe without an universal agreement with the Confederates. *Flanders* could not be preserved by a defensive Alliance in the Triple League, and therefore it is dangerous to leave "*Holland*" out.

Lord *Cavendish*.] There is the greatest mischief that can be, for *Holland* to make a separate Peace with *France*. The danger is not great with *Spain*, therefore to prevent that, we specify an Alliance with *Holland*.

Mr *Powle*.] The sum of the Debate is leaving "*Holland*" out of the Address. Though he did not expect to meet with this opposition, yet, upon recollection, he can show Precedents wherein the King has been advised to particular Alliances. In the 18th of K. *James*, the Parliament advised him to break the Match with *Spain*, and to make a War, and they then advised stricter Alliances with the States of *Holland*. In *E. III*, *R. II*, *H. V*, the Parliament advised to make a League with the Emperor, and it was signed and ratified in Parliament. He will not wave these Precedents, but he speaks these a little timorously, having not lately perused them. As for the argument of "these Addresses being against the Prerogative," Kings have always laboured to invite this House to Peace and War, because their judgment did import Supply, and they could not excuse giving money to support it, where they had advised it. Our necessity of affairs brought us once to another course, but if there were new Precedents, new dangers must create new Precedents, and a new way. But let any man show him a Precedent, that we ever assisted a neighbour too potent for us already. Would have a Precedent shown him, where, after a representation in Parliament of the greatness of the *French* King, still sending men to his assistance has been continued, and they were not ill received at Court, when they returned home. He knows not what reason we have to leave "*Holland*" out of the Address, unless we have no intention to have Alliance
with

with them at all. It is for the Crown's advantage, and this is far from intrenching upon the Prerogative. *Carew* told you, "There were more reasons for this Address than were expressed;" and they were, why should we not trust the King? It is not fit to give them; but if they be pressed too much, he must give them. Though he will not say, "We are not to trust the King," yet he will say, "We are not to trust Counsellors."

Mr *Williams*.] When the King and Council shall see the opinion of the House for an Alliance with *Holland*, he believes it will remove Counsellors, or stop the mouths of them.

Mr Secretary *Williamson*.] King *James* called for an opinion, in his Speech, from the House. He invited them to it, and the Lords, that opened that Parliament, said, "The Temple of *Janus* must be opened, which has been long shut." If that be the case, he has reason to doubt that the obstacle in the manner may hinder the matter of the Address. The King asked your advice in the separate Peace with *Holland* mentioned, but that is not the case. You are told, "We would have it, because general Alliances may do no good, and not produce change of Counsellors." But what effect, do you think, this will have, when such exceptions are taken at it, as are likely to frustrate the end? Do you mean to treat so as not to leave your Prince any latitude, but that he must grant, or not grant?

Mr *Harbord*.] He would ask a Question: Is there no danger of our Religion and Property, but from *France*? And then when *France* is in Peace, this startles him, that these Alliances may not be pursued. *England* is not safe, but by Alliance with *Holland*. Suppose there should be Peace, the Government of *Flanders* cannot support itself. To suppose the *Spanish Netherlands*, and *Lorraine* restored; *Brisac* destroyed; *Alsace* and *Maestricht* restored; would you then be safe? No more than now; because the *French* hands are full

hands, and money makes power. The *French* have both. But suppose all these places lost by the *French*, yet they abstract one Million sterling from us yearly, in trade, and he will govern your Councils every where. There is nothing to keep him from hence, but making him poor, and who can help you to do it, but the *Dutch*? Make a law to prohibit *French* trade; you need no wine, and few of his commodities; and *France* will grow poor, and we shall grow rich, and if you send no forces into *France*, and support *Holland*, the first hour you do this, your money will increase; and then we can put the King at ease, and pay his debts; and never till then.

Mr *Mallet*.] When the King is here, he is in his imperial seat; but when in his other Council, he is in his ministerial.

On a division, 182 were for the Address, and 142 against it*. About forty or fifty Members were in the Speaker's Chamber, and Court of Requests, &c. who gave no voices at all.

Ordered, That the Secretaries of State, and Privy Counsellors of the House, be desired to know his Majesty's pleasure, when he will be pleased to be attended with the Address.

Saturday, May 26.

His Majesty appointed the House to attend him with their Address, at three o'clock in the afternoon, and the House being acquainted with the King's commands, they only passed the Bill for recalling his Majesty's subjects out of the *French* King's service, and ordered it to be carried up to the Lords, with an express Order to their Messengers to put the Lords in mind of their Bill of Popery, which lay before their Lordships. And so adjourned presently after ten o'clock till two in the afternoon, and then met and attended the King in the Banqueting House with their Address. To which his Majesty, after hearing it read by the Speaker, said, "That the contents of it were long, and the matter of importance; and that he would take it into his consideration, and, with all convenient speed, return an Answer to it."

* The Question was, for leaving out the words "offensive and defensive, with the States of the United Provinces."

Monday,

Monday, May 28.

The House being met, the Speaker acquainted them with what the King had said to them, upon their Address, on *Saturday*; and immediately Mr Secretary *Coventry* told the Speaker, "That the King commanded the House to attend him presently in the Banqueting House at *Whitehall*." Upon which the House went accordingly.

Some Members rising from their seats, and going to the door, before the Speaker had reported the King's command, viz. Mr *John Grey*, Member for *Leicester*, and Sir *William Blacket*, Member for *Newcastle upon Tyne*, the Speaker reprimanded them in this manner: "The Burgeffes of *Newcastle* and *Leicester* are in great haste to be gone, before the King's Message is reported, as if they went to get places at a show, or a play."

The King spoke as follows.

"Gentlemen,

"Could I have been silent, I would rather have chosen to be so, than to call to mind things so unfit for you to meddle with, as are contained in some part of your Address; wherein you have intrenched upon so undoubted a right of the Crown, that I am confident it will appear in no age (when the sword was not drawn) that the Prerogative of making Peace and War hath been so dangerously invaded. You do not content yourselves with desiring me to enter into such Leagues, as may be for the safety of the Kingdom, but you tell me what sort of Leagues they must be, and with whom: And, as your Address is worded, it is more liable to be understood to be by your leave, than your request, that I should make such other Alliances as I please with other of the Confederates.

"Should I suffer this fundamental power of making Peace and War to be so far invaded (though but once) as to have the manner and circumstances of Leagues prescribed to me by Parliament, it is plain, that no Prince, or State, would any longer believe, that the Sovereignty of *England* rests in the Crown; nor could I think myself to signify any more [to foreign Princes] than the empty sound of a King. Wherefore you may rest assured, that no condition shall make me depart from, or lessen, so essential a part of the Monarchy: And I am willing to believe so well of this House of Commons, that I am confident these ill consequences are not intended by you.

"These are, in short, the reasons why I can by no means approve of your Address. And yet, though you have declined to grant me that Supply, which is so necessary to the ends of it,
I do

I do again declare to you, that, as I have done all that lay in my power, since your last meeting, so I will still apply myself, by all means I can, to let the World see my care both for the security and satisfaction of my people; although it may not be with those advantages to them, which, by your assistance, I might have procured.

“ I would have you return to your House, and I require that you immediately adjourn to the 16th of *July* next; but I do not intend you shall sit till Winter, unless there should happen any urgent occasions, in which case you shall have notice by Proclamation*.”

The Commons then returned to their own House, where the Speaker reported the King's Speech as above.

Mr. Powle standing up to speak, the Speaker interrupted him, and said,] I must hear no man speak, now the King's pleasure of adjourning the House is signified.

Sir Thomas Lee.] The act of adjourning the House cannot be yours, Mr Speaker, but the Act of the House; and no Question can be put, when a Gentleman stands up to speak. Pray, let us keep methods, however.

The Speaker.] When there is a command from the Crown to adjourn, we are not to dispute about it, but to obey, and adjourn. After a command of this kind, there remains nothing for you to do but to execute it. Unless any man can show me a Precedent to the contrary, you will put a hardship upon me to do otherwise.

And so the Speaker adjourned the House to the 16th of *July* next, without naming place, or hour, and suddenly sprung out of the Chair.

Many called him again to the Chair, some cried “ Stop the Mace upon the Table.” Others would have put him again into the Chair, or some body else. But the Speaker was soon surrounded by several of his party, and the Mace secured, and he went away with it before him, but not without reproachful speeches; as bidding him “ Remember Lord *Finch's* case, of the like nature.”

* This last Paragraph is not in the Speech, as inserted in the Journal, but only “ his Majesty's pleasure for adjournment was afterwards signified by the Speaker.”

And

And "That he should be called to an account for it†. Upon the instant of the Speaker's going out of the Chair, Lord *Cavendish* proffered to show some Precedents of Debates after the King's signification of Adjournment; as at that Meeting soon after *Chatham* business, when an Address was voted to the King for disbanding the new raised Forces.

Monday, July 16.

The Parliament met, in pursuance of the late Adjournment, and adjourned again, by the King's command, till the 3d of *December*; though some of them seemed dissatisfied with the manner of this, as much as they were with the late Adjournment. In particular,

Lord *Cavendish*.] Moved that the House might see the Journal, by what Order, and in what method, they were adjourned last.

Mr *Williams*.] Seconded the Motion.

But some cried out "Adjourn, Adjourn," others called for the Question. But the Speaker told them, "That he had received Orders from the King, by Mr Secretary *Coventry*, to adjourn the House till the 3d of *December*," and pronounced the House adjourned accordingly.

† The Members being returned to the House, several of them rose up probably to express their sense of this cavalier treatment, but were overborne by the Speaker, who took upon him to play the Dictator too, by insisting vehemently, that, after the King had required the House to adjourn, there was no more liberty of speech: This being, however, contested, and those who had stood up, demanding still to be heard, the Speaker had the confidence, without any Question put, and of his own motion, to pronounce the House adjourned; and therewithall stepped down on the middle of the floor, leaving the Members astonished at so flagrant a violation of their inherent Privileges. *Marvell*.

They had also the additional

mortification to see this chiding Speech of the King's made public in the *Gazette** of the next day, being the first which had ever appeared in that paper, to point them out, both to their own, and all other Nations, as refractory, disobedient, subjects, who had lost all respect to Majesty: Care being at the same time taken to suppress even the written copies of the proceedings of the House, that nothing might appear in their justification. *Ralph*.

* Upon this occasion, *Marvell* adds: "Thus were they well rewarded for their itch of perpetual sitting and of acting; the Parliament being grown to that height of contempt, as to be gazetted among run-away servants, lap-dogs, strayed horses, and highway-robbers."